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ABSTRACT

A report of a study of faculty personnel practices, including tenure, in Florida's state universities and community colleges is presented. The objective was to determine the impact of the practices on a college's ability to attract and retain faculty and to respond to changing enrollment patterns. Background information is presented on: tenure policies and practices, the legal status of tenure, tenure policies and institutional flexibility, obstacles to faculty recruitment, and faculty tenure and turnover rates. Recommendations are offered concerning: tenure, community college continuing contract system, the need for professional evaluation, systemwide guidelines, institutional long-range planning, tenure-ineligible appointments, proposed reduction in force, termination of faculty, age limit on tenure, early retirement programs, the need for better information, and faculty salaries. A reference list, a selected bibliography, and a list of recent articles from the Chronicle of Higher Education are provided. Appended is an 82-page report (including numerous statistical tables) entitled "Background Report on Tenure and Continuing Contracts Presented to Florida's Postsecondary Education Planning Commission" (May 1985). Also appended is a 30-page report by Morton H. Sklar entitled "Legal Consequences of Proposed Changes in Tenure Policies for Community College Staff." (SW)

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The Postsecondary Education Planning Commission, initially created by executive order in 1980 and subsequently given statutory authority, serves as an advisory body to the State Board of Education on all postsecondary education matters. The Commission is composed of 11 members of the general public and one full-time student registered at a postsecondary education institution in Florida. Members are appointed by the Governor with the approval of three members of the State Board of Education and subject to confirmation by the Senate.

The major responsibility of the Commission is preparing and updating every five years a master plan for postsecondary education. The enabling legislation directed that the Plan "shall include consideration of the promotion of quality, fundamental educational goals, programmatic access, needs for remedial education, regional and state economic development, demographic patterns, student demand for programs, needs of particular subgroups of the population, implementation of innovative educational techniques and technology, and the requirements of the labor market. The capacity of existing programs, in both public and independent institutions, to respond to identified needs shall be evaluated and a plan shall be developed to respond efficiently to unmet needs."

Other responsibilities include recommending to the State Board of Education program contracts with independent institutions; advising the State Board regarding the need for and location of new programs and branch campuses of public postsecondary education institutions; reviewing public postsecondary education budget requests for compliance with the State Master Plan; recommending to the Commissioner of Education proposals for support through the Postsecondary Cooperation Trust Fund; and periodically evaluating the State's 28 regional coordinating councils for vocational education, adult general education and community instructional services.

Further information about the Commission, its publications, meetings and other activities may be obtained from the Commission office, 304 Knott Building, Department of Education, Tallahassee, Florida, 32301; telephone (904) 488-7894.

POSTSECONDARY EDUCATION PLANNING COMMISSION

Faculty Recruitment and Personnel Policies

A Study Prepared in Response to
Appropriation Items 508 Through 511
of the
1985 General Appropriations Act
(Chapter 85-119, Laws of Florida)

1985 - Report 4

February 20, 1986

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EXECUTIVE SUMMARY

Commission Charge

In 1985, Governor Graham, as Chairman of the State Board of Education, asked the Postsecondary Education Planning Commission to review the tenure policies and practices in Florida's state universities and community colleges in light of their impact on faculty recruitment. Interest in this topic arose from questions as to whether the state's current tenure systems formed an obstacle to the recruitment of highly qualified faculty. Were the tenure rates in Florida so high as to preclude the institutions from competing for high caliber faculty from across the nation? In its review of State Board Rules governing community college continuing contract policies, the State Board of Education also questioned whether a highly tenured faculty would allow an institution the flexibility to respond to changing needs and enrollment shifts. In addition, questions were raised concerning the degree of flexibility institutions currently have to maintain desirable levels of tenured and non-tenured faculty. In the 1985 General Appropriations Act, the Legislature directed the Commission to review faculty recruitment and personnel policies in Florida. This report examines a number of faculty personnel practices, including tenure, in light of their impact on an institution's ability to attract and retain faculty of high caliber, maintain a continuing influx of new people and ideas, and respond to changing enrollment patterns.

Tenure in the State Universities and Community Colleges

The state universities and the public community colleges in Florida both operate under tenure systems. The community colleges use the term "continuing contract" instead of tenure, but the continuing contract system is a tenure system in concept and practice. In its simplest form tenure means that after serving a probationary period, a faculty member has the expectation of continuing employment and that once the expectation of continuing employment has been extended, employment may be terminated only for cause and due process must be followed in the termination procedures. Nothing in the rationale or rules of tenure legally shields any faculty member from accountability for performance as a teacher, scholar, or professional.

The two traditional rationales for a tenure system have been (1) protection of freedom of expression, and (2) job security. A faculty member's expression of ideas is fully protected under the Constitution and numerous court cases have reinforced that protection. Thus, the protection of academic freedom gained through tenure is redundant. Secondly, while tenure offers job security, the security is not unconditional. The courts have consistently ruled that a tenured faculty member may be dismissed for such causes as incompetence, termination of a program, or financial exigency. The difference between the termination of a tenured and nontenured faculty member is that in the case of the tenured employee the expectation of continued employment exists, and thus the institution bears the burden of proof that the dismissal is based upon legitimate grounds and that the individual has been granted due process in the dismissal process.

When properly implemented, a tenure system forces a rigorous process of decision-making upon an institution. The three components of the tenure system - the probationary period, the tenure review and the up-or-out decision - are designed to ensure that only well-qualified candidates arrive at the tenure decision point and that the tenure review is comprehensive and exhaustive.

The gravity of the tenure decision forces careful judgements and decisions. A natural tendency to avoid termination of someone who is well-liked but unexceptional in performance or ill-suited to the department is offset by the realization that a positive tenure decision will bind the department to the individual for a long period of time. A study of the few colleges around the country that have abolished tenure systems revealed that turnover of faculty did not increase. In institutions which had term contracts, contracts were extended to people who would not be considered tenurable to avoid their firing with the hope that the person would improve or resign before the next contract was due. Under a tenure system, unpleasant decisions cannot be postponed. That such screening is actually occurring has been documented by the State University System.

Though the Commission reviewed options for achieving greater managerial flexibility in administering institutions, such as abolishing tenure, it was concluded that tenure should be retained and greater use should be made of existing tools for increasing institutional flexibility such as more frequent and thorough faculty evaluations, goal-setting and institutional long-term planning, and more clearly elaborated layoff policies. Because tenure has such significant symbolic value for faculty and it is perceived as an intrinsic part of the academic profession, to weaken the tenure system as a mechanism to recruit more highly qualified faculty would be counterproductive. Furthermore, the due process requirement of tenure and the expectation of continued employment help offset the generally lower financial rewards of higher education. Given the prevalence of tenure in other states, the abolition of tenure in Florida would be harmful to the state's efforts to attract and retain highly qualified and competitively-recruited faculty.

1. Tenure in Florida's state universities and community colleges should be retained.

Community College Continuing Contract System

The community colleges contract system would benefit from modifications to clearly distinguish it from the K-12 system and establish the rigor and standards more traditionally associated with higher education tenure systems.

A strong, pre-tenure evaluation system should be established with annual evaluations and input from peers, students, and administrators. The tenure decision itself should be a comprehensive and exhaustive process and should be preceded by a longer probationary period. "Automatic" or "passive" decision-making should not occur. A longer period would ensure a more thorough and comprehensive evaluation of a candidate's qualifications, allow time for remediation if initial evaluations identified areas of weakness, and would also result in a lower percentage of tenured faculty members thus giving the institutions more flexibility to respond to changing needs. Any change in the rules of the State Board of Community Colleges to enact these recommendations should exempt employees currently under contract. The discretion to offer an earlier tenure decision point should be allowed in the community colleges as it is in the state universities.

2. The term continuing contract should be replaced with the term tenure in the rules of the State Board of Community Colleges.

3. The State Board of Community Colleges should require the local boards of trustees to develop policies and procedures on pre-tenure, tenure and post-tenure evaluations clearly setting out the timetable, the process and the criteria upon which the evaluations are to be based.

4. The rules of the State Board of Community Colleges should be amended to require a probationary period for tenure-eligible faculty members not to exceed five years.

Need for Professional Evaluation

5. As recommendations two and three are implemented, the community colleges should assess the need for additional in-service training for administrators to improve the faculty evaluation process and make use of funds earmarked for staff and program development as needed.

Systemwide Guidelines

While supporting the principle of tenure in higher education, guidelines are needed at the system level to prevent an institution's faculty from becoming too heavily tenured.

A systemwide guideline which sets an upward limit on the amount of instruction that should be taught by the tenured faculty would help prevent an institution from becoming locked in by a too heavily tenured faculty and would encourage the type of long-range personnel planning necessary in periods of slow growth.

6. The Board of Regents and the State Board of Community Colleges should establish systemwide guidelines stating that no more than 75 percent of the instructional load in any institution should be taught by faculty holding tenured positions. Institutions currently above that level should submit a plan to reduce the percentages over a five-year time period. After implementation of the plan, prior approval from the appropriate board should be attained to exceed the guideline.

Institutional Long-Range Planning

The most appropriate and effective management strategies can be developed at the institutional level to ensure a balance between young, junior faculty and a stable core of tenured senior faculty. The careful planning and management of faculty personnel systems should be a high priority for each institution.

7. Individual community colleges and state universities should develop long-range tenure percentage projections. These projections should be part of the careful planning and management of a faculty personnel system to ensure that institutions maintain the staffing flexibility necessary to meet the future needs of the public.

Tenure-ineligible Appointments

One of the major reasons that the state universities have lower tenure rates than the community colleges is that almost one-fifth of the faculty in state universities are on non-tenure eligible appointments. These positions may be reserved for faculty who are filling a temporary need of the institution, such as teaching special courses which are not a permanent part of the curriculum, or working on a project for a limited period of time. Community colleges have made only slight use of a non-tenure track option.

8. The rules of the State Board of Community Colleges should provide local boards with the authority to make faculty appointments with the designation that the position does not lead to an awarding of tenure. This authority should be exercised only where the responsibilities of the position have been designated by the local board of trustees as temporary in nature.

9. The rules of the State Board of Community Colleges should provide an opportunity for a faculty member to request a review of the non-tenure accruing status of a position. If the local board of trustees finds the need for the position to be ongoing, full credit for probationary period service should be awarded.

Proposed Change to State Board Rule 6A-14.412

One of the specific questions that the State Board of Education requested the Commission to address concerned the ability of a community college to avoid committing itself through an offer of a continuing contract to a faculty member whose services may be needed for a short period of time. The State Board of Community Colleges proposed a rule change to lessen the degree of certainty a local board must have to base a decision not to offer a continuing contract and to continue the employee on an annual contract. The State Board of Community Colleges was, in particular, concerned about a community college's ability to respond to declining enrollments. A better approach to achieving the goal of assuring that an institution has the ability to respond to changes is the use of non-tenure tracks. If there is uncertainty regarding need for a faculty member's services for more than a temporary period of time, the limited commitment explicit in a non-tenure track would not obligate the institution to the faculty member, and the faculty member would be cognizant from the outset that there is no expectation of tenure.

10. State Board Rule 6A-14.412, FAC, should not be amended to lessen the degree of certainty of need that a local board of trustees must have to not extend an offer of tenure (or continuing contract) to a candidate otherwise qualified. The implementation of recommendation eight should provide the board with the latitude necessary to respond to uncertain future needs.

Reductions in Force

Laying off personnel is an extremely difficult action for any major employer to undertake. As a review of the literature concerning recent layoffs in higher education in other parts of the country indicates, a strong, well-articulated and clearly defined layoff policy should already be in place prior to applying its provisions. The Board of Regents has detailed rules for the state university faculty defining circumstances justifying layoffs, the categories of personnel effected, the process of recall, and the responsibilities of the employer to locate alternative employment. Many of the community colleges also have developed layoff policies and procedures. It is in the State's interest that all community colleges have well-developed policies that will enable an efficient and equitable layoff of employees if need arises.

11. The State Board of Community Colleges should require the local boards of trustees to adopt policies governing layoffs consistent with the provisions of the current State Board Rule 6A-14.411. The policies should include the circumstances under which layoffs shall occur, the criteria to be used in the selection of individuals to be laid off, any obligation to the employee for assistance in seeking employment elsewhere or providing training in another field and the process of recall of laid-off employees. The faculty should be involved in the development of the policies. The State Board of Community Colleges should provide technical assistance.

Termination of Faculty

The courts have consistently upheld the right of an institution or system to terminate tenured faculty for just cause if due process procedures are followed. The current State Board of Education rule regarding termination of community college faculty mandates that termination of an employee on continuing contract be based on seven criteria: immorality; misconduct in office; incompetence; gross insubordination; willful neglect of duty; drunkenness; or conviction of any crime involving moral turpitide [6A-14.411(6),FAC].

The BOR Collective Bargaining Agreement states that a faculty member may be terminated for "just cause". "Just cause" is defined as incompetence and misconduct. The language referring to just cause for termination is consistent with recent court decisions in higher education cases that have upheld an institution's right to dismiss tenured faculty on such grounds.

12. The rules of the State Board of Community Colleges should be amended to state that termination of tenured personnel should be for just cause. The Board should define just cause and restrict the criteria for which someone may be terminated to include only activities affecting an employee's job performance.

Age Limit on Tenure

The protection of the tenure system should not be continued after age 70. At that point, faculty members should be reviewed annually and reappointment should be subject to the results of the review. This policy would allow the retention of senior faculty members who are making a strong contribution to the institution and who wish to continue a full-time professional life. It would also facilitate the non-reappointment of a faculty member whose performance was below standard.

13. The State Board of Community Colleges and the Board of Regents should adopt policies for the termination of tenured appointments at age 70. At that time, faculty should be employed on annual contracts and be subject to annual review. This policy would apply only to faculty members employed after the policy change goes into effect.

Early Retirement Programs

Early retirement programs have been developed in recent years as one strategem to increase voluntary turnover among faculty members, and thus allow for the needed infusion of new ideas. In addition, early retirement options can serve as a significant recruitment tool as institutions seek to employ highly qualified new faculty members. The State University System has recently inaugurated a phased retirement program which allows faculty members to phase into retirement by reducing their workload over a five-year period.

The community colleges do not as a whole have early retirement programs. In a survey of the college presidents, the majority indicated that their faculty was "aging" and there was some concern about the disproportionate number of older faculty.

14. The Commission supports the Board of Regents Phased Retirement Program and recommends that the Board continue to monitor the success of the program in increasing faculty turnover, meeting the needs of senior faculty and serving as a recruitment strategy.

15. The community colleges should assess the need for early retirement incentives for their faculty and the State Board of Community Colleges, in conjunction with the Postsecondary Education Planning Commission, should provide technical assistance to the colleges in the assessment and implementation of early retirement programs. The Board should seek any necessary changes in state statutes or rules which might hinder the development of such programs.

Need for Better Information

In its deliberations, the Commission reviewed the data available on faculty employment. Historical data on faculty were not available from either the State Board of Community Colleges or the Board of Regents. However, the Board of Regents has recently adopted an individual data base which maintains a number of data items on each faculty member. The State Board of Community Colleges is currently revising and upgrading its management information system and intends to develop unit record data. In this process, the Board should review the type of faculty data needed at the state and local levels to assure meaningful planning takes place in this critical area.

16. As the State Board of Community Colleges revises its management information system, it should review the need for the collection of information on faculty including age data, years and conditions of employment, and reasons for termination. The State Board of Community Colleges should provide necessary technical assistance to the colleges as they develop their faculty planning capability. Information on collective bargaining agreements, institutional faculty contracts, institutional tenure policies, and the number, nature and disposition of cases, grievances, and complaints on tenure-related issues should be compiled and available for analysis at the state level.

The State should ensure that all faculty interested in positions in Florida be provided with topical and accurate information on position vacancies. The State Board of Community Colleges and the Board of Regents presently compile biweekly updates on faculty position vacancies including information on job requirements and salaries. Inquiries from prospective faculty should be channeled to the appropriate college or university to ensure that the institutions select from the broadest pool of qualified applicants.

17. The State Board of Community Colleges and the Board of Regents should designate staff responsibility for referring names of prospective faculty to the community colleges or universities which may have vacancies in the appropriate fields.

Faculty Salary

The community college and state university administrators and faculty testified that low salaries are a significant barrier to the recruitment of a strong faculty.

18. Faculty salaries should be at a level which allows Florida institutions to be competitive with comparable institutions in other states.

Conclusion

The Commission has determined that Florida state universities and community colleges operate under tenure systems and should continue to do so. The advantages of tenure in providing a rigorous, formal series of evaluations culminating in an up-or-out decision outweigh the disadvantages of the system. Furthermore, given the prevalence of tenure in other states and the symbolic value it has for faculty, abolishing tenure would be harmful to the State's efforts to attract and retain highly qualified and competitively-recruited faculty.

To be most effective, a tenure system should include careful, pre-tenure evaluations, a probationary period of sufficient length to ensure thorough knowledge of the candidate's potential and a comprehensive tenure evaluation process.

The Commission also looked at other methods for enhancing faculty recruitment efforts and assuring necessary turnover to allow for the needed infusion of new ideas. These include among others early or phased retirement programs, use of non-tenure track faculty and guidelines for tenure rates. Recommendations are made to improve the type of information on faculty available at the state and local levels. Such information is essential if the state and local boards are to develop and maintain effective faculty recruitment and faculty planning systems.

I. INTRODUCTION

In 1985, Governor Graham, as Chairman of the State Board of Education, asked the Postsecondary Education Planning Commission to review the tenure policies and practices in Florida's state universities and community colleges in light of their impact on faculty recruitment. Interest in this topic arose from questions as to whether the state's current tenure systems formed an obstacle to the recruitment of highly qualified faculty. Were the tenure rates in Florida so high as to preclude the institutions from competing for high caliber faculty from across the nation? In its review of State Board Rules governing community college continuing contract policies, the State Board of Education had questioned whether a highly tenured faculty would allow an institution the flexibility to respond to changing needs and enrollment shifts. In addition, questions were raised concerning the degree of flexibility institutions currently have to maintain desirable levels of tenured and non-tenured faculty. In the 1985 General Appropriations Act, the Legislature directed the Commission to review faculty recruitment and personnel policies in Florida. This report examines a number of faculty personnel practices, including tenure, in light of their impact on an institution's ability to attract and retain faculty of high caliber, maintain a continuing influx of new people and ideas, and respond to changing enrollment patterns.

Commission Approach

A Committee composed of four Commission members, chaired by Mr. Burke Kibler, was appointed by the Chairman. The Committee actively sought testimony from all interested parties in the State. Information on barriers to recruitment and retention of university faculty was provided by the Board of Regents staff. Community college presidents were surveyed about barriers to recruitment and retention of their faculty, as well as concerns about the aging of the faculty and the role of the State in mandating faculty contract requirements. Testimony at public meetings was received from the Board of Regents, the State Board of Community Colleges and the United Faculty of Florida as well as administrators and faculty members from the community colleges and state universities. Commission members and staff also met with and received valuable commentary from the Community College Council on Instructional Affairs, the State Board of Community Colleges, the Board of Regents Faculty Forum and the United Faculty of Florida chapter presidents during the course of the deliberations.

A background paper on the origins and current practices of tenure was prepared by the Institute of Higher Education at the University of Florida. See Appendix A. The Public Policy Studies Clinic of the Florida State University College of Law provided an analysis of the legal standing of Florida's tenure systems. See Appendix B. The Labor Studies Center at the University of the District of Columbia, which has a formal affiliation with the American Association of Community and Junior Colleges, provided information on the length of the probationary period in community colleges in other states.

II. BACKGROUND INFORMATION ON TENURE AND RELATED ISSUES

Tenure Policies and Practices

Tenure may be defined as the status granted to faculty members who successfully complete a probationary period of employment. Under tenure systems, faculty appointments are continued until retirement unless the faculty member is dismissed for adequate cause or unavoidable termination due to financial exigency or programmatic change.

Tenure originated in Europe during the Middle Ages. However, its development to its present form has occurred primarily within this century. The American Association of University Professors (AAUP) formalized the concept in the early 1900s in the wake of a number of celebrated cases in which faculty members were dismissed for expressing ideas not approved by governing boards. The most notable case was the dismissal of Edward Ross from Stanford University in 1900. Ross had campaigned vigorously in public forums against laissez-faire economic principles and his resignation was demanded by Jane Stanford, widow of a California rail industrialist and sole trustee of Stanford. With reluctance, the president of the University requested and obtained Ross' resignation. This case, and a number of other cases, caused concern among faculty in leading universities around the country, sparking debate that continued for four decades. In 1940 the AAUP and the Association of American Colleges reached agreement on a Statement of Principles on Academic Freedom and Tenure. Ten years after its publication, most colleges and universities in America had incorporated into their operations the general principles set forth in this monograph. These principles can be summarized in four basic statements:

1. the probationary period should not exceed seven years,
2. adequate prior notice should be given prior to termination of faculty,
3. tenured faculty may be dismissed only for just cause including financial exigency, and
4. institutional hearings concerning dismissals of tenured faculty should be organized around established due process procedures.

Although significant variation exists in how the system functions from institution to institution, roughly 85 percent of all colleges and universities employing 95 percent of all full time faculty operate under a tenure system. Virtually all public universities and colleges have a tenure system, while 94 percent of all private colleges have a tenure system. Although it is generally called a continuing contract arrangement, 65 percent of all private and public community colleges also operate under a tenure system.

Tenure has not been interpreted to mean a guarantee of permanent employment. Rather, tenure policies generally state that termination can occur only for just cause, extraordinary circumstances, or financial exigency, and only following a formal hearing at the institution. On the national level, typical causes of termination of a tenured faculty member are the following:

1. voluntary resignation,
2. mandatory retirement age,
3. death,
4. incapacity due to disability,

5. neglect of obligation,
6. breach of the canons of ethics prescribed for the particular discipline,
7. reduction in or discontinuance of a program,
8. redirection of a program,
9. dishonesty,
10. insubordination
11. immorality or sexual harassment,
12. conviction of a crime,
13. enrollment decline,
14. reduction by legislative mandate.

In twentieth-century American higher education, tenure has been perceived as a means to accomplish two goals. First, it has been suggested that tenure protects academic freedom and prevents arbitrary dismissal of faculty. Second, tenure has been described as a way to provide sufficient economic security in order to make the academic profession attractive to men and women of ability.

Tenure has been controversial since its inception in the United States. The most frequent arguments supporting the tenure system are the following.

1. Since freedom only exists when one does not fear for the loss of livelihood, a tenure system is needed as a means of ensuring this freedom.

2. Since tenured faculty form an independent body, they are capable of providing a strong voice to protect all in academe. Having a group of senior faculty members on tenure protects the tenured and nontenured alike from capricious and arbitrary action.

3. By creating a faculty with a long-term commitment to the institution, tenure contributes to institutional stability. Because of the long term commitment that tenure brings, for example, faculty members may take a more active role in maintaining academic standards and integrity on an institutional rather than a personal level.

4. By forcing institutions to decide at a definite time on whom to confer continuing employment and whom to terminate, a tenure system helps to avoid continuing those who are agreeable but not outstanding. By enforcing the "up or out" precedent, tenure helps to ensure that only those who have achieved distinction in their field will become permanent. Likewise, by forcing a crucial decision, tenure helps to avoid promotions made out of administrative generosity or neglect.

5. A tenure system encourages promotion decisions to be based upon professional grounds and not on grounds of competitive personal advantage. A rigorous and comprehensive evaluation process allows the nominee to demonstrate a wide variety of service, instruction, and research contributions and forms a hedge against favoritism or prejudice.

6. Tenure has an economic value that helps offset the generally lower financial rewards of higher education. The economic value offered by job security may help to entice talented men and women to enter, or remain in the profession, who otherwise might go elsewhere.

People opposed to tenure argue that tenure is not necessary to ensure academic freedom as long as sound academic due process procedures are in place. The following arguments are the most commonly cited reasons in opposition to tenure systems.

1. Not only is tenure unnecessary to maintain academic freedom, it actually inhibits its free expression. Too often junior faculty members must rigidly conform to the norms of their department in order to receive tenure.

2. Tenure imposes an inflexible burden upon institutions. Because the composition of a faculty may not be changed easily, tenure promotes curricula inflexibility, increases financial pressures during enrollment declines, and generally lowers the institution's ability to adapt to changing conditions.

3. Tenure diminishes the institution's ability to recruit and retain younger faculty, minorities, and women. Because tenure reduces job mobility, new positions are lacking that otherwise might be filled by young faculty, minorities, and women.

4. By virtually ensuring permanence of appointment, tenure diminishes accountability. The periodic evaluation built into a contract system would help to establish greater accountability and eventually greater quality in the educational institutions.

5. Tenure works against the concept of quality by making the first few years of a faculty members life a frantic race to establish professional credentials.

6. Tenure leads to a diminished emphasis on quality undergraduate teaching. Since the production of research is easier to quantify than is teaching, candidates for tenure will concentrate their efforts in that area.

While the large majority of institutions have tenure systems, some institutions and systems operate without tenure. These alternative personnel arrangements include short-term contracts, rolling contracts, multi-year contracts, and growth contracts. Furthermore, some institutions and systems have retained tenure but have modified its traditional components by creating longer probationary periods, two-track systems and tenure quotas.

A 1982 national study of alternatives to tenure, Beyond Traditional Tenure, written by R. P. Chait and A. T. Ford, concluded that the alternative systems did not increase faculty turnover, consumed a greater amount of time, engaged a greater number of people and generated a greater amount of material. The report stated that alternative systems were not markedly superior to tenure or irresistibly attractive and that effectively administered by a campus community, academic tenure can be an effective policy.

Legal Status of Tenure

A considerable body of case law exists defining the legal parameters within which tenure systems may operate. For public institutions the courts have ruled that tenure is a property right which can be taken away only by due process. The courts, however, have left up to the institutions the determination of what the process should be. The involvement of the judicial system in the process has generally been restricted to ensuring the constitutionality of the process and to protecting the faculty member's rights under the First Amendment. The courts have also accepted the procedural guidelines promulgated by the AAUP as being legally sufficient. The courts have not accepted the AAUP standard for financial exigency which states that an institution must be in fiscal jeopardy. The courts have preferred to accept the notion that the financial emergency does not have to affect the entire institution nor extend to the capital assets of the school.

In Florida, historically, the state university and community college tenure systems developed differently resulting in different legal standings. The state universities adopted customary and contractual practices prior to any involvement of state governments. This framework of standards and procedures became the basis for state law when state statutes and rules were adopted. Faculty contractual relationships at Florida community colleges developed from a different background. Initially, community colleges were part of the local school districts and faculty contracts were controlled by statutes and rules governing the K-12 schools. When the colleges became independent of the local school boards, similar statutes and rules were adopted. Because tenure in the community colleges did not derive from institutional practice, less substantive and detailed definition of tenure issues exist at the institutional level. Tenure practices in community colleges continue to reflect their origin in the public school systems.

The elimination of tenure protection at the state level would have consequences for both community colleges and state universities. Because there are fewer institutional policies and customs to fall back upon, the impact would be greater for community colleges. Moreover, the nature of these consequences could not be determined, because there is no collection or analysis of information at the state level on the community colleges' tenure policies, practices and experiences. In the absence of information on local policies, it is impossible to make an accurate assessment of whether protection of job security and academic freedom would be adequate at the community college level if state law were repealed. The absence of state standards might produce a situation where a wide variety of inconsistent standards could be adopted by individual colleges. The absence of state standards would be bound to raise some concerns on the part of prospective teaching candidates who would expect some minimum protection on a uniform basis. It could thus have a negative impact on faculty recruitment.

Tenure Policies and Institutional Flexibility

Under present tenure policies, more opportunity to address the problem of institutional flexibility exists than is generally acknowledged or utilized.

Tenure Denials. Faculty members currently on a tenure track but not yet tenured may be denied tenure. In the State University System faculty on a tenure track are subjected to a rigorous screening process. Indeed, less than half of those initially hired, receive tenure seven years later. On the other hand, the decision to grant a continuing contract after the three-year probationary period in the community college often takes place through a passive process without a comprehensive evaluation of merit unless strong reasons are present for tenure to be denied. This is at variance with the AAUP urging that "...the award of tenure always be based on an explicit judgment of qualifications...never...by default, through the mere passage of time in probationary service." (Commission on Academic Tenure, 1973). Nothing in present statutory provisions and collective bargaining agreements precludes the utilization of a more explicit assessment system both in terms of the initial grant of a continuing contract and for annual evaluations of continued competency in service.

Layoffs of Tenured Faculty. Current state board rules give considerable authority to the Board of Regents and the community colleges' boards of trustees to layoff personnel as long as due, process is observed and rational and defensible reasons related to economic and educational necessity are provided for taking the action. For example, Rule 6C-5.125(2), FAC, authorizes layoffs in the university system as a result of adverse financial circumstances; reallocation of resources; reorganization of academic or administrative structures, programs or functions; or curtailment of one or more programs or functions either systemwide or in an individual school, department or program. Timely and appropriate notice of the layoff must be given, and contractually agreed upon standards relating to the order that exists for the laying off of staff (based on tenure status and years of service) must be followed. Similar examples of the availability of layoff procedures also can be provided for the community college system and individual boards of trustees. Rule 6A-14.411(5), FAC, states:

> Should the board have to choose from among its personnel who are on continuing contracts as to which should be retained, among the criteria to be considered shall be educational qualifications, efficiency, compatibility, character and capacity to meet the educational needs of the community. Whenever a board is required to or does consolidate or reduce a program, the board may determine on the basis of the forgoing criteria...which college employees shall be employed...and any employee no longer needed may be dismissed...In the evaluation of these factors, the decision of the board shall be final.

Termination of Tenured Faculty. Though rarely exercised, institutions may terminate tenured faculty for incompetence or for reasons of financial exigency. Nothing in current statutes or rule prohibits termination of faculty for just cause.

Tenure Guidelines. Long-range planning policies designed to reduce current percentages of tenured faculty may be adopted. Under current law, an institution may establish planning goals that would seek to limit the percentage of tenured faculty to a select level and to work towards the achievement of this objective over time.

Using strategies such as the establishment of tenure-ineligible lines, longer probationary periods and early retirement incentives, an institution may maintain a preferred ratio of tenured to non-tenured faculty.

Repeal of the Continuing Contract System in the K-12 Sector

As noted earlier, the continuing contract system under which the community colleges currently operate was developed for the local K-12 school boards and was continued in the community colleges when they became independent of the school districts. The continuing contract system remained in the K-12 system also. However, in 1982 the Legislature abolished the system in the K-12 sector and replaced it with a professional services contract. Public dissatisfaction with "teacher tenure" was widespread and the Legislature wished to inaugurate a process that would be more responsive to a publicly perceived need for more accountability in performance. The major differences in the new professional services contract and the former tenure system is that the new process lays out in considerable detail how teachers are to be evaluated during the probationary period, mandates a formal program of guidance and support for beginning teachers, requires professional instruction for administrators in supervisory skills, mandates a period of remediation for a teacher found wanting, and provides a formal grievance procedure in the event of an unfavorable assessment. The new contract is similar to its predecessor, however, in that following a probationary period of three years, a teacher must be let go or extended the equivalent of a tenured position.

Obstacles to Recruitment of Faculty

Community college and state university personnel were asked to identify the greatest barriers or obstacles to the recruitment of highly qualified faculty. Both sectors identified low salaries as the greatest obstacle. State university representatives also mentioned inadequate support in the areas of equipment, clerical personnel, computing services, travel funds and research start-up monies. Other factors that were listed as obstacles to faculty recruitment were centralized state procedures, the reputation of institutions, fringe benefits, the absence of doctoral programs, high teaching loads, space, and library resources. Areas frequently cited from the community college representatives included inadequate funds for travel and interviewing, inability to transfer out-of-state retirement benefits, lack of qualified minority applicants and applicants in high-technology fields, and increased competition from the private sector for qualified applicants. Tenure or the continuing contract system were not noted as an obstacle by representatives in either sector. On the contrary, the absence of tenure was noted as a potential barrier.

Information on Faculty Tenure and Turnover Rates

In 1984-85, the tenure rate was 58.6 percent for the State University System and 76.9 percent for the community colleges. A comparison of Florida data with national data indicates that the Florida state universities tenure rate is lower than the national average while the Florida community colleges tenure rate is comparable to the national average. See Table One.

TABLE ONE

Percent of Full-Time Tenured Instructional Faculty in Public Institutions

Florida 1984-85	Percent Tenured
State University System	58.6
Community Colleges	76.9
United States 1982-83	
Universities and Four-year Colleges	68.2
Two-Year Institutions	69.7

SOURCE: NCES, HEGIS XIX Report, 1986.
Florida Department of Education, 1985.

The use of tenure-ineligible positions is different in the two systems. The state universities have a significant portion (20.6%) of the faculty in tenure-ineligible positions while this factor represents an insignificant number in the community colleges (3.0%).

A certain degree of movement of faculty in and out of the system is necessary to ensure an adequate balance between the supply of fresh ideas and new talent and a stable core of senior faculty committed to the institution. A Board of Regents study tracked newly hired faculty for a seven year period following their employment, showing that less than half of the faculty (44%) had received tenure in the state universities seven years later. Table Two indicates the amount of faculty turnover. In 1984, approximately 5.2 percent of the faculty left employment and 6.9 percent entered employment with the State University System.

TABLE TWO

Number and Percentages of Faculty Terminations
and New Faculty Hires by Tenure Status
State University System - 1984-85

Faculty Tenure Status	Total Full-time Faculty	Number Terminated	Percentage Terminated	Number Hired	Percentage Hired
Tenured	2791	NA	NA	2	0.1
Tenure-Eligible	1027	NA	NA	190	18.5
Tenure-Ineligible	344	NA	NA	96	27.9
TOTAL	4162	215	5.2	288	6.9

SOURCE: State University System, 1986.

The State Board of Community Colleges indicated that data were not available on the number of community college faculty who actually were hired and subsequently received continuing contracts. However, data were provided on the number and percentage of faculty terminations among the colleges by tenure status. As indicated in Table Three, 274 faculty left the system in 1984, representing about 6 percent of the total faculty. About the same number (269) of new faculty were hired.

TABLE THREE

Number and Percentages of Faculty Terminations and New Faculty Hires by Tenure Status in Florida Community Colleges - 1984-85

Faculty Tenure Status	Total Full-time Faculty	Number Terminated	Percentage Terminated	Number Hired	Percentage Hired
Tenured	3410	171	5.0	3	0.1
Tenure-Eligible	828	89	10.7	225	27.2
Tenure-Ineligible	315	14	4.5	41	13.0
Total	4553	274	6.0	269	5.9

SOURCE: State Board of Community Colleges, EE06 and OCR A1 Report, 1986.

A number of community college presidents reported that the older faculty are settled and tend to remain until retirement. Younger faculty are more likely to leave their positions to pursue new professional opportunities with higher salaries. However, the community colleges utilize a large number of part-time instructors which, in practice, provides considerable flexibility. The colleges employ almost twice as many part-time as full-time faculty and part-time faculty are responsible for approximately one-third of the teaching load.

III. FINDINGS AND RECOMMENDATIONS

Tenure in the State Universities and Community Colleges

The state universities and the public community colleges in Florida both operate under tenure systems. The community colleges use the term "continuing contract" instead of tenure, but the continuing contract system is a tenure system in concept and practice. In its simplest form tenure means that after serving a probationary period, a faculty member has the expectation of continuing employment and that once the expectation of continuing employment has been extended, employment may be terminated only for cause and due process must be followed in the termination procedures. Nothing in the rationale or rules of tenure legally shields any faculty member from accountability for performance as a teacher, scholar, or professional.

The two traditional rationales for a tenure system have been (1) protection of freedom of expression, and (2) job security. A faculty member's expression of ideas is fully protected under the Constitution and numerous court cases have reinforced that protection. While tenure offers job security, the security is not unconditional. The courts have consistently ruled that a tenured faculty member may be dismissed for such causes as incompetence, termination of a program, or financial exigency. The difference between the termination of a tenured and nontenured faculty member is that in the case of the tenured employee the expectation of continued employment exists, and thus the institution bears the burden of proof that the dismissal is based upon legitimate grounds and that the individual has been granted due process in the dismissal process.

Courts have consistently ruled that if cause exists and due process (adequate notice and opportunity for appeal) is followed, then tenured faculty may be dismissed. Although the community colleges and the State University System have removed tenured faculty members, the number is very low. According to testimony from state and institutional representatives, while the theoretical and legal right to terminate exists, in practice, it is very time consuming, difficult and expensive to terminate a tenured faculty member. An institution may incur costly legal fees in hearings and subsequent appeals with no assurance that the final outcome will be favorable to the administration. Termination, thus, becomes a method of last resort. Strategems such as re-assignment, early retirement, and salary adjustments are employed more readily. It is notable that such methods are also normally utilized in employment settings with none of the protections of tenure. In practice, few employers, public or private, are comfortable with terminating employees and avoid such practices whenever possible. Thus, while layoffs and terminations of tenured faculty members occur infrequently, this is less a result of the legal restrictions of tenure than of the administrative and fiscal burden of the process and of the availability of other approaches.

When properly implemented, a tenure system forces a rigorous process of decision-making upon an institution. The three components of the tenure system - the probationary period, the tenure reviews and the up-or-out decision - are designed to ensure that only well-qualified candidates arrive at the tenure decision point and that the tenure review is comprehensive and exhaustive.

In the State University System, a faculty member's performance is reviewed annually. The evaluation reviews teaching effectiveness, student evaluations, advising, counseling, research and creative activity, and service to university, local, state or national communities and to scholarly and professional associations. In Florida, Section 240.245(2), F.S. requires service to public school districts to be credited to a faculty member's candidacy. A tenure file is prepared by the candidate which may include information on assigned activities, education record, employment record, service outside the institution, committee assignments and other institutional service activities, student teaching evaluations, contracts and grants received and publications. A tenure review committee is appointed and undertakes a thorough review of the candidate's qualifications. The nominee will be interviewed, the classroom teaching will be observed and publications will be critiqued. References outside the institution will be solicited to establish better a nominee's stature within the discipline. The results of the tenure committee's deliberations will be formally submitted to the department chairperson or dean. Depending on the institution's structure, the candidate's qualifications must be reviewed by a number of different entities. These usually include the senior members of the department, the department chairperson, a college-wide faculty committee, the college dean, the vice-president for academic affairs, the president and the Board of Regents. The obligation to serve on such committees is considered one of the most important a faculty member may assume.

The process for awarding a continuing contract in community colleges is somewhat different because of the different history of the community colleges. A continuing contract may be awarded after three years of probationary service. The extent of evaluation in the probationary period differs for the different colleges as does the extent and rigor of the review prior to the awarding of the continuing contract. Evaluation of teaching is the primary criterion for awarding of the contract and the decision is frequently made by administrators with less involvement of faculty peers. Student evaluation of the candidate's teaching is sometimes considered in the decision.

In both universities and community colleges, the gravity of the tenure decision forces careful judgements and decisions. A natural tendency to avoid termination of someone who is well-liked but unexceptional in performance or ill-suited to the department is offset by the realization that a positive tenure decision will bind the department to the individual for a long period of time. A study of the few colleges around the country that have abolished tenure systems revealed that turnover of faculty did not increase. In institutions which had term contracts, contracts were extended to people who would not be considered tenurable to avoid their firing with the hope that the person would improve or resign before the next contract was due. Under a tenure system, unpleasant decisions cannot be postponed. That such screening is actually occurring has been documented by the State University System. Based on data from SUS faculty members hired in Fall 1976, 1977, and 1978, seven years later only 44 percent remained in the system and were tenured.

The Commission reviewed options for achieving greater managerial flexibility in administering institutions, such as abolishing tenure or, in the case of the community colleges, assigning the decision as to whether there should be a tenure system to the local boards of trustees. It was concluded that rather than abolishing tenure, greater use should be made of existing tools for increasing institutional flexibility. These include more frequent and thorough faculty evaluations, goal-setting and institutional long-term planning, and more clearly elaborated layoff policies. Furthermore, in the absence of information particularly in the community colleges on local policies, it would be impossible to make an accurate assessment of whether protections of job security and academic freedom would be adequate if state requirements were repealed. Also the absence of state standards might result in a wide variety of inconsistent standards among different institutions and would raise some concerns on the part of prospective teaching candidates who would expect some minimum protections on a uniform basis. A negative impact on faculty recruitment might result.

Tenure has a significant symbolic value for faculty. It is perceived as an intrinsic part of the academic profession embodying the special role higher education plays in society as a repository of extant knowledge and as a site for the exploration of new ideas. To weaken the tenure system as a mechanism to recruit more highly qualified faculty would be counterproductive. While layoffs of faculty members in other states have occurred as a result of shifting enrollment patterns and demographics, it is highly unlikely that the stronger faculty members in institutions in those states would be laid off and those that were would likely not consider a non-tenure earning position. Traditionally it has been argued that the due process requirement of a tenure system and the expectation of continued employment help offset the generally lower financial rewards of higher education. This line of reasoning is still legitimate and given the prevalence of tenure in other states, the abolition of tenure in Florida would be harmful to the state's efforts to attract and retain highly qualified and competitively-recruited faculty.

1. Tenure in Florida's state universities and community colleges should be retained.

Community College Continuing Contract System

The state universities and community colleges are notably different in their tenure practices, reflecting differing historical developments and different missions. The community colleges have a strong tradition of local control which the Commission recognizes and affirms. The community college continuing contract system was carried over from the K-12 system when the community colleges became independent of the public school districts in the late 60s. The current K-12 contract system is part of a broader set of policies including state-level teacher certification and the state-mandated Beginning Teacher Program. With strict state controls on faculty selection, the K-12 system is an inappropriate model for higher education institutions. The community college system should be modified in the direction of the traditional higher education tenure systems. Three major differences are noted. First, evaluation processes and procedures for community college faculty members in the years prior to the awarding of a continuing contract are not always well established or comprehensive. Secondly, the tenure decision-making process itself may be automatic rather than rigorous or comprehensive. Third, the probationary period is three years in the community colleges while it is usually five or six years in other higher education settings.

The community colleges contract system would benefit from some modifications that clearly distinguish it from the K-12 system and establish the rigor and standards more traditionally associated with higher education tenure systems. A strong, pre-tenure evaluation system should be established with annual evaluations and input from peers, students, and administrators. The tenure decision itself should be a comprehensive and exhaustive process and should be preceded by a longer probationary period. "Automatic" or "passive" decision-making should not occur. Though the information available indicates that the majority of community colleges in the country have three years or less as the probationary period, as is the case in Florida, a longer period would ensure a more thorough and comprehensive evaluation of a candidate's qualifications and also allow time for remediation if initial evaluations identified areas of weakness. A longer probationary period would be particularly valuable in dealing with inexperienced junior faculty who show promise but need development in certain areas. A longer probationary period would also result in a lower percentage of tenured faculty members thus giving the institutions more flexibility to respond to changing needs.

Any change in the rules of the State Board of Community Colleges to enact these recommendations should exempt employees currently under contract. Such grandfathering would allow faculty members to be evaluated under the criteria in place when they accepted their initial appointment if they so desire.

The discretion to offer an earlier tenure decision point should be allowed in the community colleges as it is in the state universities. An early decision point could prove an incentive in the recruitment of an exceptionally well qualified faculty member, particularly one from out-of-state who has to move across country.

2. The term continuing contract should be replaced with the term tenure in the rules of the State Board of Community Colleges.

3. The State Board of Community Colleges should require the local boards of trustees to develop policies and procedures on pre-tenure, tenure and post-tenure evaluations clearly setting out the timetable, the process and the criteria upon which the evaluations are to be based.

4. The rules of the State Board of Community Colleges should be amended to require a probationary period for tenure-eligible faculty members not to exceed five years.

Need for Professional Evaluation

A strong evaluation system relies on the ability of the evaluators to undertake a fair, thorough, and constructive evaluation process. Evaluations may not always be consistent or well documented. Department chairs and other administrators could benefit from formal instruction in the techniques of observation, evaluation and assessment. The Board of Regents is presently contracting with the Florida State University Institute for Departmental Leadership which offers in-service training for department chairs. Two percent of each college's allocation from the Community College Program Fund is earmarked for staff and program development which could be used to provide in-service training in evaluation systems and procedures. A longer probationary period as recommended above should result in more effective evaluations prior to the tenure decision point.

5. As recommendations two and three are implemented, the community colleges should assess the need for additional in-service training for administrators to improve the faculty evaluation process and make use of funds earmarked for staff and program development as needed.

Systemwide Guidelines

While supporting the principle of tenure in higher education, guidelines are needed at the system level to prevent an institution's faculty from becoming too heavily tenured.

Institutions need flexibility to respond to fluctuating enrollment levels and changing student demand for programs. While a stable core of tenured instructors form the foundation of a faculty, managerial flexibility may be retained by having a portion of the instructional responsibilities undertaken by non-tenured faculty, including junior faculty, tenure-ineligible faculty and adjunct instructors. While the state universities have maintained moderate tenure rates below the national average, some community colleges are approaching a tenure rate of 100 percent for the full-time faculty. A systemwide guideline which sets an upward limit on the amount of instruction that should be taught by the tenured faculty would help prevent an institution from becoming locked in by a too heavily tenured faculty and would encourage the type of long-range personnel planning necessary in periods of slow growth.

6. The Board of Regents and the State Board of Community Colleges should establish systemwide guidelines stating that no more than 75 percent of the instructional load in any institution should be taught by faculty holding tenured positions. Institutions currently above that level should submit a plan to reduce the percentages over a five-year time period. After implementation of the plan, prior approval from the appropriate board should be attained to exceed the guideline.

Seventy-five percent is an upper limit and should not be construed as a minimum or a preferred level. The desired ratio of tenured to non-tenured faculty varies greatly by the size, maturity, scope and mission of an institution and the Commission recognizes the responsibilities of the sector boards and individual institutional boards and administrators to set guidelines and policies in this area. The 75 percent limit represents a point beyond which an institution may be in danger of losing the flexibility necessary to respond to fluctuation in demand for services.

Institutional Long-Range Planning

The most appropriate and effective management strategies can be developed at the institutional level to ensure a balance between young, junior faculty and a stable core of tenured senior faculty. The careful planning and management of faculty personnel systems should be a high priority for each institution. In a time of slow growth or declining enrollments, even small percentage increases in tenured faculty may seriously erode an institution's flexibility. Institutions should develop the capacity to project their own tenure percentages in the future using forecasting models based on age and tenure status of current faculty and estimated retirement, resignation and death rates of faculty in the future. While projections can only be made on the basis of present data and available knowledge, institutions are encouraged to develop and then use models which realistically represent the wide range of variables that affect staff planning.

7. Individual community colleges and state universities should develop long-range tenure percentage projections. These projections should be part of the careful planning and management of a faculty personnel system to ensure that institutions maintain the staffing flexibility necessary to meet the future needs of the public.

Tenure-ineligible Appointments

One of the major reasons that the state universities have lower tenure rates than the community colleges is that almost one-fifth of the faculty in state universities are on non-tenure eligible appointments. These positions may be reserved for faculty who are filling a temporary need of the institution, such as teaching courses which are not a permanent part of the curriculum or working on a project for a limited period of time. Examples of these kinds of appointments include instructors (teaching faculty who are not expected to be involved in public service or research), visiting professors, and faculty members who are employed to work on funded projects. Non-tenure track appointments may also be used to fill a permanent need with rotating faculty, such as distinguished lecturers. The employee is apprised prior to accepting a position that it is a tenure-ineligible position.

Community colleges have made only slight use of a non-tenure track option. In total, only 3.0 percent of all faculty are considered tenure-ineligible in the community colleges. The current State Board Rules do not provide explicit authority for non-tenure track appointments in community colleges. Though circumstances at the universities are different from community colleges because of the multiple responsibilities of university faculty (teaching, research and public service), the concept of a non-tenure track has merit for community colleges. The State Board of Community Colleges should develop policies for the colleges for the use of tenure-ineligible instructors. A non-tenure track appointment may be appropriate when there is a need for someone to instruct in an area for a short period of time. One example might be the instruction in a vocational area for an industry that has recently located near the college. An instructor may be needed only for one or two years to train a complement of technicians. A non-tenure track position may also be appropriate for employing distinguished visiting lecturers or professional practitioners at a campus for a limited number of years.

8. The rules of the State Board of Community Colleges should provide local boards with the authority to make faculty appointments with the designation that the position does not lead to an awarding of tenure. This authority should be exercised only where the responsibilities of the position have been designated by the local board of trustees as temporary in nature.

Provisions should require that any person who is employed in a non-tenure earning position should have the right to request the local board to review the status of the position. If the Board finds that the position is indeed not temporary then the faculty member should have the right to request a tenure-accruing appointment and to have full credit for the years of service applied to the probationary period.

9. The rules of the State Board of Community Colleges should provide an opportunity for a faculty member to request a review of the non-tenure accruing status of a position. If the local board of trustees finds the need for the position to be ongoing, full credit for probationary period service should be awarded.

Proposed Change to State Board Rule 6A-14.412

One of the specific questions that the State Board of Education requested the Commission to address concerned the ability of a community college to avoid committing itself through an offer of a continuing contract to a faculty member whose services may be needed for a short period of time. The current State Board Rule that governs this issue states that "Any employee who is otherwise entitled to receive a continuing contract may be issued an annual contract provided the board, upon the recommendation of the president, shall by majority vote find that ... the required duties and responsibilities of that position have been restricted or will be needed for a limited time." [6A-14.412, FAC]. The State Board of Community Colleges proposed changing the rule so that the final phrase read "...may be needed for a limited time." This would lessen the degree of certainty a local board must have to base a decision not to offer a continuing contract and to continue the employee on an annual contract. The State Board of Community Colleges was, in particular, concerned about a community college's ability to respond to declining enrollments. The Board felt that this change would give local boards greater discretion.

A better approach to achieving the goal of assuring that an institution has the ability to respond to changes is the use of non-tenure tracks. If there is uncertainty regarding need for a faculty member's services for more than a temporary period of time, the limited commitment explicit in a non-tenure track would not obligate the institution to the faculty member, and the faculty member would be cognizant from the outset that there is no expectation of tenure. This approach avoids the professionally disheartening situation of a faculty member performing well in the expectation of the awarding of tenure and then being turned down through no fault of the instructor's. Furthermore, if needs change, the local boards of trustees already have the authority to terminate faculty on an annual contract for any reason and to terminate those on continuing contract through the State Board Rule governing layoffs.

Therefore, State Board Rule 6A-14.412, FAC, should not be amended by substituting may for will. The option of non-tenure track lines will provide the institution with the needed flexibility.

10. State Board Rule 6A-14.412, FAC, should not be amended to lessen the degree of certainty of need that a local board of trustees must have to not extend an offer of tenure (or continuing contract) to a candidate otherwise qualified. The implementation of recommendation eight should provide the board with the latitude necessary to respond to uncertain future needs.

Reductions in Force

Laying off personnel is an extremely difficult action for any major employer to undertake. As a review of the literature concerning recent layoffs in higher education in other parts of the country indicates, a strong, well-articulated and clearly defined layoff policy should already be in place prior to applying its provisions. The policy should be proposed and discussed in a calm and rational atmosphere which may not exist if implementation is imminent.

Layoff or reduction in force (RIF) policies in some community colleges may be lacking or inadequately articulated. Current State Board Rules explicitly authorize local community college boards to lay off personnel as needed (regardless of contract status) and provides wide latitude to the boards in deciding who shall be laid off:

> Should the board have to choose from among its personnel who are on continuing contracts as to which should be retained, among the criteria to be considered shall be educational efficiency, compatibility, character, and capacity to meet the educational needs of the community. Whenever a board is required to or does consolidate or reduce its program, the board may determine on the basis of the foregoing criteria from its own personnel and any other instructional personnel, which college employees shall be employed for service at the college and any employee no longer needed may be dismissed. The decision of the board shall not be controlled by any previous contractual relationship. In the evaluation of these factors, the decision of the board shall be final [6A-14.411 (5), FAC].

The 1982 Legislature recognized the need for a state requirement for layoff policies in the school districts and amended the Florida Statute governing the layoff policies to require the local districts to adopt rules to handle reductions in force:

> Should a school board have to choose from among its personnel who are on continuing contract or professional service contract as to which should be retained, such decisions shall be made pursuant to the terms of a collectively bargained agreement, when one exists. If no agreement exists, the district school board shall prescribe rules to handle reduction in work force [231.36 (5) FS].

The Board of Regents has detailed rules for the state university faculty defining circumstances justifying layoffs, the categories of personnel effected, the process of recall, and the responsibilities of the employer to locate alternative employment. Many of the community colleges also have developed layoff policies and procedures. It is in the State's interest that all community colleges have well-developed policies that will enable an efficient and equitable layoff of employees if need arises.

11. The State Board of Community Colleges should require the local boards of trustees to adopt policies governing layoffs consistent with the provisions of the current State Board Rule 6A-14.411. The policies should include the circumstances under which layoffs shall occur, the criteria to be used in the selection of individuals to be laid off, any obligation to the employee for assistance in seeking employment elsewhere or providing training in another field and the process of recall of laid-off employees. The faculty should be involved in the development of the policies. The State Board of Community Colleges should provide technical assistance.

Termination of Faculty

The courts have consistently upheld the right of an institution or system to terminate tenured faculty for just cause if due process procedures are followed. The state rules or agreements governing the establishment of tenure, therefore, should be accompanied by language defining the provisions for the termination of a tenured employee. The current State Board Rule regarding termination of community college faculty mandates that termination of an employee on continuing contract be based on seven criteria: immorality; misconduct in office; incompetence; gross insubordination; willful neglect of duty; drunkenness; or conviction of any crime involving moral turpitide [6A-14.411(6), FAC]. The same provisions in statutes governing dismissal of K-12 teachers were amended in 1982 to omit the last two criteria, thus retaining only those that related directly to professional activities.

The BOR Collective Bargaining Agreement states that a faculty member may be terminated for "just cause". "Just cause" is defined as incompetence and misconduct. The language referring to just cause for termination is consistent with recent court decisions in higher education cases that have upheld an institution's right to dismiss tenured faculty on such grounds. The State Board of Community Colleges would strengthen its termination policies by bringing them into line with current legal findings and by restricting the criteria to include only activities affecting an employee's job performance.

12. The rules of the State Board of Community Colleges should be amended to state that termination of tenured personnel should be for just cause. The Board should define just cause and restrict the criteria for which someone may be terminated to include only activities affecting an employee's job performance.

Age Limit on Tenure

Throughout its deliberations, the Commission has been concerned with preventing the institutional rigidity that may result from a lack of new faculty members and fresh ideas. This concern is particularly acute in an era of slow growth or declining enrollments. In the absence of additional faculty positions, new faculty may be brought in only by replacing former faculty through retirement, resignation, terminations, or death. This issue has attracted the attention of numerous groups at the national level. A national commission on college retirement is preparing to advocate that colleges and universities be allowed to establish fixed retirement dates for their tenured faculty members. An age limit on tenure would allow the retention of senior faculty members who are making a strong contribution to the institution and who wish to continue a full-time professional life and also allow an institution not to reappoint a faculty member whose performance was below standard. The Commission recommends that the protection of the tenure system not be continued after age 70. At that point, faculty members should be reviewed annually and reappointment should be subject to the results of the review.

13. The State Board of Community Colleges and the Board of Regents should adopt policies for the termination of tenured appointments at age 70. At that time, faculty should be employed on annual contracts and be subject to annual review. This policy would apply only to faculty members employed after the policy change goes into effect.

Early Retirement Programs

Early retirement programs have been developed in recent years as one strategem to increase voluntary turnover among faculty members, and thus allow for the needed infusion of new ideas. In addition, early retirement options can serve as a significant recruitment tool as institutions seek to employ highly qualified new faculty members. The State University System has recently inaugurated a phased retirement program which allows faculty members to phase into retirement by reducing their workload over a five-year period. Faculty members are allowed to work up to one-half time for five years at one-half salary upon retirement and while drawing retirement benefits. This program has attracted approximately 275 faculty members so far. Early or phased retirement programs may help free up positions and salary money with which to hire young faculty.

The community colleges do not as a whole have early retirement programs. In a survey of the college presidents, the majority indicated that their faculty was "aging" and there was some concern about the disproportionate number of older faculty. According to the results of a 1985 survey, the community college faculty has an estimated mean age of 48 years. As noted in a report on early retirement in community colleges by the University of Florida Institute of Higher Education:

> "in times of growth and financial security, such a stable faculty body would be an asset to a quality system, but in times of declining enrollments and reduced real financial support it could be argued that such stability limits the system's ability to meet ever-changing student demands and places a significant financial burden on the institutions which comprise the system. Beyond flexibility and costs, it could be argued that faculty turnover is necessary to keep new blood moving into the system for vitality and to implement affirmative action plans".

The report included a survey of community college faculty attitudes toward early retirement incentives and found that a large percentage registered interest in either a full pension incentive plan (faculty are assured pension benefits equal to what they would be at mandatory retirement age) or part-time employment.

Early retirement programs may differ depending on faculty age distribution, instructional programs and compensation and benefit packages. However, both state-level policies and institutional policies have an impact on retirement incentives. According to the survey, 67 percent of the Florida community college faculty has acquired a vested interest in either the Teacher's Retirement System or the Florida Retirement System as a result of ten or more years of service within the system. The State Board of Community Colleges should assume a leadership role in providing the colleges with technical assistance in evaluating and implementing early retirement programs and in developing state-level policies to facilitate the development of such programs.

14. The Commission supports the Board of Regents Phased Retirement Program and recommends that the Board continue to monitor the success of the program in increasing faculty turnover and meeting the needs of senior faculty and serving as a recruitment strategy.

15. The community colleges should assess the need for early retirement incentives for their faculty and the State Board of Community Colleges, in conjunction with the Postsecondary Education Planning Commission, should provide technical assistance to the colleges in the assessment and implementation of early retirement programs. The Board should seek any necessary changes in state statutes or rules which might hinder the development of such programs.

Need for Better Information

In its deliberations, the Commission reviewed the data available on faculty employment. Historical data on faculty were not available from either the State Board of Community Colleges or the Board of Regents. However, the Board of Regents has recently adopted an individual data base which maintains a number of data items on each faculty member. The development of sound policies regarding faculty recruitment, promotion and retention is hampered by inadequate data. For example, age data on community college faculty were not available. It will be increasingly important for local boards of trustees to have good information on their own faculty and faculties at other community colleges in the State as they develop personnel policies either directly or as part of a collective bargaining agreement. The State Board of Community Colleges is currently revising and upgrading its management information system and intends to develop unit record data. In this process, the Board should review the type of data needed at the state and local levels on faculty to assure meaningful planning takes place in this critical area.

Further development of state policy regarding faculty terms of employment is hindered by the lack of information on tenure policies and actions at the local community colleges.

16. As the State Board of Community Colleges revises its management information system, it should review the need for the collection of information on faculty including age data, years and conditions of employment, and reasons for termination. The State Board of Community Colleges should provide necessary technical assistance to the colleges as they develop their faculty planning capability. Information on collective bargaining agreements, institutional faculty contracts, institutional tenure policies, and the number, nature and disposition of cases, grievances, and complaints on tenure-related issues should be compiled and available for analysis at the state level.

The State should ensure that all faculty interested in positions in Florida be provided with topical and accurate information on position vacancies. The State Board of Community Colleges and the Board of Regents presently compile biweekly updates on faculty position vacancies including information on job requirements and salaries. Inquiries from prospective faculty should be channeled to the appropriate college or university to ensure that the institutions select from the broadest pool of qualified applicants.

17. The State Board of Community Colleges and the Board of Regents should designate staff responsibility for referring names of prospective faculty to the community colleges or universities which may have vacancies in the appropriate fields.

Faculty Salary

The community college and state university administrators and faculty testified that low salaries are a significant barrier to the recruitment of a strong faculty. The Master Plan firmly states that "faculty are the key to a stronger system of postsecondary education in Florida" and underscores the need for "faculty compensation policies leading to the retention, attraction and reward of strong faculty."

18. Faculty salaries should be at a level which allows Florida institutions to be competitive with comparable institutions in other states.

IV. CONCLUSION

The Postsecondary Education Planning Commission has reviewed the current policies in Florida regarding tenure and continuing contracts and their impact on successful faculty recruitment. The Commission has determined that Florida state universities and community colleges operate under tenure systems and should continue to do so. The advantages of tenure in providing a rigorous, formal series of evaluations culminating in an up-or-out decision outweigh the disadvantages of the system. Furthermore, given the prevalence of tenure in other states and the symbolic value it has for faculty, abolishing tenure would be harmful to the State's efforts to attract and retain highly qualified and competitively-recruited faculty.

The Commission found that the tenure systems may be improved and made more responsive to concerns for institutional flexibility. For the community colleges, in particular, the Commission recommends a number of modifications to the present continuing contract system that would reduce the percentage of tenured faculty and increase managerial flexibility in dealing with changes such as declining enrollments.

The Commission also looked at other methods for enhancing faculty recruitment efforts and assuring necessary turnover to allow for the needed infusion of new ideas. These include among others early or phased retirement programs, use of non-tenure track faculty and guidelines for tenure rates. Recommendations are made to improve the type of information on faculty available at the state and local levels. Such information is essential if the state and local boards are to develop and maintain effective faculty recruitment and faculty planning systems.

Appendix A

Background Report on Tenure and Continuing Contracts

BACKGROUND REPORT ON TENURE AND CONTINUING CONTRACTS PRESENTED TO FLORIDA'S POSTSECONDARY EDUCATION PLANNING COMMISSION

Institute of Higher Education
University of Florida
Gainesville, Florida

May 1985

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PREFACE

This report was prepared by the Institute of Higher Education at the University of Florida for Florida's Postsecondary Education Planning Commission to be used at the Commission's discretion. The intent of the report was to provide background information on tenure and continuing contracts in American higher education for use by the Commission throughout its study of faculty recruitment and personnel policies.

While preparing this report, the writer drew upon many researchers in the area of tenure in higher education. A bibliography is provided in an effort to credit the work of writers who contributed to this report, and to suggest reading for those who wish to pursue the topic further. Each work which is directly cited in the text is included in the reference list at the end of the report. For the convenience of the reader, a minimal amount of textual citations have been used.

The Institute of Higher Education is heavily indebted to the careful scholarship of Dr. James Heck who has carried out the major work of this study. Dr. Heck's thoroughness is evident throughout this document.

James L. Wattenbarger
Director, Institute of Higher Education

Gainesville, FL

CHAPTER I

INTRODUCTION

This report will be divided into two sections. Part I will include Chapters I through V, and will generally provide background material in narrative form. Chapter I offers an introduction to tenure. Chapter II is a review of the literature. Chapter III traces the historical development of tenure. Chapter IV discusses tenure as it specifically relates to the United States. And, Chapter V synthesizes some of the current issues surrounding tenure, and reviews a few suggested alternatives to the present system.

Part II includes Chapters VI through VIII and is a presentation and brief analysis of recently collected data related to tenure. Chapter VI presents and analyzes data collected from Florida's State University System. Chapter VII presents and analyzes data collected from Florida's 28 Community Colleges. Chapter VIII synthesizes information regarding faculty tenure and continuing contracts in the other 49 states.

Definition of Tenure

Tenure has been described as a generic term applied to a phenomenon with many variations. Broadly speaking, tenure is the status granted to faculty members who successfully complete a probationary period of employment. It is "an arrangement under which faculty appointments in an institution of higher education are continued until retirement for age or physical disability, subject to dismissal for adequate cause or unavoidable termination on account of financial exigency or change of institution program" (Keast, 1973, p. 256).

Tenure has not been interpreted to mean a guarantee of permanent employment. Rather, tenure policies generally state that termination can occur only for just cause, extraordinary circumstances, or financial exigency, and only following an institution hearing. "Just cause" has been defined in the 1981-1984 agreement between the Florida Board of Regents, the State University System of Florida, and the United Faculty of Florida as "incompetence" or "misconduct." On a national level, typical causes of the termination of appointment of a tenured faculty member included the following:

1. voluntary resignation,
2. mandatory retirement age,
3. death,
4. incapacity due to disability,
5. neglect of obligation,
6. breach of the canons of ethics prescribed for the particular discipline,
7. reduction in or discontinuance of a program,
8. redirection of a program,
9. dishonesty,
10. insubordination,
11. immorality or sexual harrassment,
12. conviction of a crime,
13. enrollment decline,
14. reduction by legislative mandate (Fortunato & Waddell, 1981, pp. 170-171).

In 20th century American higher education, tenure has been perceived as a means to accomplish two goals. First, it has been suggested that tenure protects academic freedom and prevents arbitary dismissal of faculty. Second, tenure has been described as a way to provide sufficient economic security in order to make the academic profession attractive to men and women of ability.

The terms "tenure" and "continuing contract" will be used somewhat interchangably in this report. Continuing contract is the term traditionally used to describe continuing employment arrangements at community colleges. These contracts generally have a shorter probationary period (frequently three years) than those awarded at four-year colleges and research universities.

Tenure in Context

Role in Personnel Administration

Tenure operates within at least two larger contexts. First, tenure's role within the context of personnel administration should be considered. Tenure is only one of the many aspects of higher education personnel administration. Other important aspects of personnel administration include:

1. staffing/orientation,
2. retirement policies,
3. disability policies,
4. collective bargaining,
5. salary administration,
6. employee benefits,
7. performance evaluation,
8. personnel records,
9. information systems, and
10. affirmative action.

All of the components listed above have a significant impact on higher education. The development of effective personnel policies depends upon a coodination of all the various elements that are encompassed under the umbrella of personnel administration.

Larger Societal Context

Second, the advent of tenure in American higher education should be viewed as part of a larger societal trend. Some writers suggested that the granting of tenure is just a portion of a larger trend throughout our culture toward ensuring job security. This trend is reflected in the rise of the civil service system, the emphasis placed upon job security by some labor unions, and the development of various professional organizations that have as a significant portion of their goals the maintenance of job security for their members. Perhaps a case can be made that this trend is international in scope. According to William Ouchi in his book entitled Theory Z: How American Business Can Meet the Japanese Challenge, a significant aspect of Japanese management theory includes the promotion of lifetime job security for workers. Ouchi (1981) stated that

> the most important characteristics of the Japanese organization is lifetime employment: Lifetime employment, more than being a single policy, is the rubric under which many facets of Japanese life and work are integrated. (p. 15)

The awarding of tenure is a common practice in almost all institutions of higher education in the United States. The job security that tenure offers to those in the academic profession should not be viewed, however, as a phenomenon unique to higher education.

CHAPTER II

REVIEW OF RELATED LITERATURE

The literature related to tenure was found to be extensive. Because this report is only intended to be a summary of information, only the more significant material will be mentioned in this chapter. The reader wishing a more thorough review of the literature should select titles of interest listed in the bibliography included within this report.

Additionally, abstracts from 140 articles related to tenure appear in Appendix B. These abstracts are drawn from a bibliographic computer search conducted by this writer. The Educational Resources Information Center (ERIC) database was searched using the Dialog Information Retrieval Service. ERIC is the compete database on educational materials from the Educational Resources Information Center. The search traced research reports and periodicals related to tenure that have appeared within the last five years. A further explanation of the ERIC database and a sample record is included with the abstracts in Appendix B.

This chapter will be organized around three general topics. The first section will discuss literature offering an historical overview of the development of tenure. The second section will focus upon literature specifically related to legal issues and tenure. Finally, the third section will mention literature of a more general scope. A significant number of articles related to tenure appeared in the Chronicle of Higher Education from the fall of 1984 until the time this report was written. These articles are listed chronologically in the addendum to the bibliography. Copies of these articles appear in Appendix C.

Literature Offering An Historical Overview

Metzger (1973) suggested that by tracing the development of tenure in higher education, a professional educator "recapitulates the evaluation of his species and comes into more knowing terms with himself" (p. 94). Many other researchers have written historical accounts of higher education that focus upon or include a study of the development of academic tenure.

Frederick Rudolph (1962), in his classic work The American College and University: A History, included a section on the development of academic freedom and tenure. Rudolph (1962) traced the origins to the German model:

> The principles that governed research and scholarship in the German universities... in so many ways were the source of inspiration for the new American universities. The German university professor, in speaking of academic freedom (and tenure) had in mind two words: "Lernfreiheit" and "Lehrfreiheit." By "Lernfreiheit" he meant that absence of administrative coercion which freed the German student to ...be free from all restrictions... hostile to an atmosphere of dedicated study and research. By "Lehrfreiheit" the German professor meant the right of the university professor to freedom of inquiry and to freedom of teaching, the right to study and to report on his findings in an atmosphere of consent. (p. 42)

Rudolph emphasized that unlike the tradition that later developed in America, the German professor did not necessarily enjoy these rights beyond the walls of the university. He described what eventually evolved in America in the following manner:

> In the classroom the American professor used his professional competence and his scientific knowledge of the facts to present controversial questions in such a way that his own neutrality protected the students from indoctination. Outside the university the American professor took advantage of the American committment to the idea of freedom of speech and thereby advanced the principle that the professor might enjoy outside the classroom the same rights, the same freedoms, as other Americans. (p. 413)

In addition to The American College and University: A History, Rudolph also published a widely read book in 1977 specifically concerning the American undergraduate course of study entitled Curriculum. In this book he also traced the development of academic tenure in America. Rudolph summarized his thinking by stating the following: "Let it be said... that while tenure protected the professors in advancing new ideas and unpopular ideas, it also sometimes protected them when the time for both them and their ideas had come and gone" (Rudolph, 1977, p. 157).

In addition to sections within full length studies regarding the development of tenure, numerous articles offered a concise historical overview. Simpson (1975) wrote an article which appeared in the Educational Record, which offered perspectives on the past, present, and future of tenure.

Tucker and Mautz (1982) suggested that "to understand the complexities of tenure requires knowledge of how the concept evolved and how it affects instruction and academic freedom" (p. 22). In addition to discussing a variety of current issues, Tucker and Mautz succintly traced the medieval and American colonial origins of tenure, the founding of the American Association of University Professors (AAUP), and the evolution of the concept of academic freedom.

Although many writers have addressed the historical developments of tenure as it affects other related topics, few writers have focused exclusively upon its history. Metzger (1973) has apparently written the most comprehensive treatise from an historical perspective. His essay appeared in a report issued by the Commission on Academic Tenure in Higher Education, which was established during 1971. This commission was supported by a grant from the Ford Foundation. The commission was jointly sponsored by the A.A.U.P. and the Association of American Colleges.

Although Metzger's writing style is somewhat obscure, he thoroughly discussed every important stage in the development of tenure. His investigation chronicled this development "from the time it emerged in the high middle ages" (p. 94). He discussed how tenure was reshaped by the Reformation, and how it was reshaped again by the German influence. He included a lengthy discussion of pertinent events in the early years of Harvard, William and Mary, the University of Virginia and other influential American institutions. Metzger concluded by examining the events that led to the formation of the AAUP, and to subsequent 20th century American developments.

Literature Specifically Related to Legal Issues and Tenure

A comprehensive discussion of how the law relates to higher education in America has been presented by Alexander and Soloman (1972) with several updated revisions. This book is frequently used as a textbook for graduate education in law and higher education. Another comprehensive treatise was authored by Kaplan (1978).

Rosenblum (1973) has written a useful essay which established the legal parameters within which tenure operates. In this essay, Rosenblum elaborated upon two important 1972 U.S. Supreme Court cases that have influenced tenure in higher education: Perry v. Sinderman, and Board of Regents of State Colleges v. Roth.

A miriad of books, essays, and articles discuss tenure and due process as it relates to the legal rights of faculty. A monograph issued by the National Education Association (1932) entitled Tenure and Due Process offers a concise and relatively recent information source. This monograph provides information concerning the probationary period, temporary and part-time faculty appointments, substantive due process, procedural due process, and due process during periods of retrenchment.

Other general studies of tenure, due process, and the legal rights of faculty were written by Hollander (1978) and Kaplin (1978). As reported in Habecker (1981), the dissertations of Fisher (1976), Myricks (1975), Schwieso (1975), Thurston (1975), and Wilde (1976), concern the legal rights of faculty in public institutions of higher education. The rights of community college faculty as it relates to tenure were investigated by Burrows (1977), Giardina (1974) and Pichelman (1976). Studies by Brown (1977), Byse (1977), Finkin (1975), Matheson (1975), Rood (1978), Pettigrew (1970), and Van Alstyne (1977) addressed the topic separately concerning the rights of tenured and non-tenured faculty.

Among other topics, Habecker's work summarized studies done concerning legal issues and tenure. After reviewing a wealth of studies on the legal dimensions of tenure, Habecker (1981) synthesized his results in this regard. He stressed that legal dimensions vary depending upon whether or not the institution is public or private. For public institutions, however, Habecker suggested that

> tenure is viewed as a property right which can only be taken away by due process of law. The process which is due, however, is generally determined by each institution and not by the courts. Judicial evaluation of the process is generally directed towards ensuring the constitutional adequacy of the process and to making sure one's First Amendment rights have been free from institutional encroachment. Courts have judicially accepted the procedural practices suggested by the AAUP as being legally sufficient. Few, if any, courts have found that academic freedom is a constitutional right. (p. 9)

Habecker (1981) continued his synthesis by discussing the basis for protection of tenure within private institution. He concluded that

> since most private institutions do not fall under the requirements of constitutional law, constitutional due process procedures used in public institutions are legally irrelevant. If either tenured or non-tenured professional contracts are lacking in necessary due process protections, an aggrieved professor will not be able to have such set aside unless the contract is not a valid contract or it validates public policy. The rights of faculty, both tenured and non-tenured, can be much more limited in a private institution than they can in a public institution. (p. 14)

A very informative overview of recent court cases involving the termination of tenured faculty members as a result of financial exigency was written by Saunders (1984). While reviewing a number of influential court cases, Saunders attempted to answer the following questions: how do the courts define financial exigency, what do they accept as just cause for the termination of professors, and what legal requirements constitute good faith? Saunders (1984) concluded the following:

> The status of the case law at present indicates that bona fide financial exigency is just cause for the termination of tenured faculty members. The courts have chosen, for the most part, to reject the AAUP's survival standard in determining financial exigency in an institution and have preferred to accept the notion that the financial emergency does not have to affect the entire institution nor extend to the capital assets of the school. As colleges and universities continue having difficulty stretching their budgets to cover all programs, the continuing emergence of case law will illustrate the boundaries within which institutions of higher education will have to perform. (p. 17)

There exists a wealth of information regarding the legal dimensions of tenure beyond what has been discussed here. For individuals wishing a recent and concise view, however, Sanders' article is a recommended source of information.

Literature of a More General Scope

As mentioned previously in this chapter, the literature related to tenure has found to be extensive. It follows that the literature that could be categorized under the heading of "general interest" would be extensive. This section will briefly discuss a few of the more significant contributions in this regard.

As one would expect, given the fact that one of the organizational goals is promoting academic freedom and tenure, the AAUP has published a substantial amount of literature. Much of this literature seeks to do the following: 1. explain the necessity for maintaining academic freedom, 2. demonstrate how academic tenure helps to ensure that academic freedom remains vital in higher education, and 3. recommend general policies and procedures in regard to academic freedom and tenure for adoption by institutions of higher education.

The most influential document published by the AAUP, and perhaps the most influential document related to tenure in existence, is their 1940 Statement of Principles and Interpretive Comments (AAUP, 1940). This monograph was published following six years of discussion among the AAUP membership and other interested individuals. The 1940 statement was a restatement and amplification of the 1925 Statement on Academic Freedom and Tenure. The 1925 Statement, in turn, had replaced the original 1915 Declaration of Principles endorsed by the AAUP at its inception. The 1940 document attempted to set the norms under which institutional policies and procedures would be established in American higher education. Ten years after its publication, most colleges and universities in America operated under the general principles set forth in this monograph. The principles can be summarized in four basic statements:

1. the probationary period should not exceed seven years,
2. adequate prior notice should be given prior to termination of faculty,
3. tenured faculty may be dismissed only for just cause including financial exigency, and
4. institutional hearings concerning dismissals of tenured faculty should be organized around established due process procedures.

Over the years following the publication of their 1940 statement, the AAUP has issued numerous articles and monographs. Of this body of literature, some of the more frequently cited articles listed chronologically include: "On Some Misconceptions

Concerning Academic Freedom" by Machlup (1955), "In Defense of Academic Tenure" by Machlup (1964), "Report of the University of Utah Commission to Study Tenure" by the Commission to Study Tenure (1971), "Tenure: A Summary, Explanation, and Defense" by Van Alstyne (1971), "On Tenure" by Brewster (1972), and the "1982 Recommended Institutional Regulations on Academic Freedom and Tenure by the AAUP (1982). Copies of these AAUP documents appear in Appendix D.

In addition to the previously mentioned articles and monographs, the AAUP published a full length commission report entitled Faculty Tenure, edited by Keast (1973). This Keast Commission Report, as it was later called, was asked by the AAUP to "consider the operation of the tenure system in higher education, to evaluate the criticism of academic tenure made during recent years, to consider alternatives to tenure in effect or porposed for adoption, and to recommend needed modification or improvements in the tenure system if it is to be returned" (p. xi).

Essentially, the commission recommended that the tenure system should be retained with needed modification initiated. Most of the modifications recommended by the Keast Commission appear in the first 100 pages of the book. A guide to the recommendations appears on pages 270-273 (Keast, 1973).

An overview of the controversies surrounding tenure appeared in a book entitled The Tenure Debate (Smith, 1973). The book contained the writing of many experts on the topic including John R. Silber, John C. Livingston, Kenneth E. Eble, and William F. McHugh, among others. It discussed academic tenure in its many facets and included discussions on the dilemmas of tenure, proposals prompted by the tenure debate, and faculty unionism.

Many articles have appeared that are critical of the manner in which tenure operates in American higher education. Two of the more frequently cited articles in this regard were written by two professors, James O'Toole and Dabney Park. The O'Toole (1976) article suggested, among other things, that the "professoriat" should come to see that "its true self-interest lies in the abolition of tenure," and that the broader interests of education also would be served by tenure's abolition.

Park (1972), while he described himself as a loyal AAUP member, suggested that "tenure breeds resentment among administrators who are excluded from it and among the public who see it as a special privilege" (p. 35). He concluded that academic freedom could be guaranteed "through fair evaluation procedures without resorting to the special privileges of tenure" (p. 37). He urged his colleagues to "trust their intellectual and academic freedom to equitable internal procedures and beyond that to the Constitution and the courts" (p. 36).

For those readers wishing to contemplate alternatives to the present tenure system, Chait and Ford's(1932) book would be perhaps the most useful source of information. Chait and Ford described several institutions that have abolished tenure. They also described specific modifications to the several practices presently in place, including tenure and non-tenure tracks, extended probationary periods, and tenure quotes. Of those institutions studied that abolished tenure and began a term contract system, Chait and Ford (1932) made the following generalizations:

1. contract systems do not produce significant faculty turnover as a result of nonreappointments (p. 42),
2. a causal relationship, either positive or negative, between term contracts and innovation cannot be ascertained from the available data (p. 47),

3. a causal relationship, either positive or negative, between term contracts and faculty morale or between term contracts and faculty performance cannot be ascertained from available data (p. 50),
4. academic freedom can be and has been provided at colleges with term contracts (p. 55),
5. term contracts systems predicated on faculty growth plans are unlikely to be practicable at most colleges and universities (p. 58),
6. no evidence suggests that term contracts systems adversely affect efforts to recruit faculty (p. 61), and
7. faculty contracts may facilitate layoffs or cutbacks should retrenchment be necessary (p. 62).

Chait and Ford (1982) concluded their study by discussing sound tenure policy. Within this discussion they stated that

> the more we examined the alternatives, the less we were persuaded that any were markedly superior to tenure or irresistibly attractive. Instead, we reached essentially the same conclusion as the Keast commission: effectively administered by a campus community, academic tenure can be an effective policy (p. 143).

In addition to including an historical perspective on tenure, Tucker and Mautz (1982) offered informative comments on tenure that are of a more general nature. They made several points in summarizing their thinking, including the following:

1. the violence of the attack on tenure is out of proportion to the percentage of incompetent teachers (p. 25),
2. tenure, with its blanket protection is the price paid for the benefits of encouraging faculty to stray from the comfortable path of orthodoxy and to challenge stultifying rationalizations used to maintain it (p. 25),

3. the psychological trauma of abolishing tenure would be enormous and disrupting (p. 25), and
4. imposing limits on academic freedom through emphasis on responsibility, the concept of careful evaluation prior to public declaration, and the doctrine of subject matter relevance in classroom or laboratory performance all help to protect society from abuse of freedom (p. 25).

In addition to the literature related to tenure of general interest, several books provided information on the wider topic of personnel administration. Castetter (1981) wrote a book designed to help the reader understand the context of the personnel function. Included in this work is a discussion of the features of tenure, the process of awarding tenure, and the termination of tenured faculty.

Fortunato and Waddell (1981) also wrote of the personnel function in higher education. They included a discussion of the AAUP standards on tenure, the relationships between academic freedom and tenure, the reasons for dismissals of a tenured faculty member, and the items to be considered when establishing a tenure policy. Both this and the Castetter (1981) book attempted to place tenure in the context of the wider discussion of personnel administration.

CHAPTER III

HISTORICAL OVERVIEW

Medieval Origins

The precursors of what are now called universities emerged in medieval Europe. At the time, traveling scholars began to gather together in study groups. These groups were largely concerned with the theological investigation and they generally were related to the church.

From its inception in the Middle Ages, teaching at a university or studium generale as they were called at the time, was a "highly privileged occupation" (Metzger, 1973, p 94). The privilege bestowed upon scholars by the rulers of church and state were largely in response to the violence of the age. Because of this back drop of violence, rulers generally wished to ensure the safety of scholars so that they might encourage those scholars to remain within their domain.

As reported by Metzger (1973), in 1158 the Emperor of Bologna, Frederick Barbarossa, issued an order "promising scholars in his domain safe conduct in their journeys, protection from attack upon their domiciles, and compensation for unlawful injury" (p 94). This order became known as the Authentica Habita, and it set a precedent for other rulers to follow. Soon after its enactment a shield of protection "from would-be plunderers and assailants" was offered by other sovereign rulers throughout the continent. (p 94).

Following the issuing of the Authentica Habita, it gradually became customary to offer special privileges that went beyond physical protection. Scholars, for example, generally received, the right to be exempt from military duty and from the paying of taxes. Scholars also sought and received immunity from certain criminal and civic legal sanctions.

Additionally, they sought, and eventually secured, above all other privileges the right "to enact rules and regulations to which they and those who dealt with them had to conform" (Metzger, 1973, p 96).

A parallel to the establishment of certain privileges being awarded to scholars may be seen in the formation of gilds throughout medieval Europe. These guilds developed around certain professions, crafts, and trades. Similar to the privileges sought by medieval scholars, the members of these guilds sought mutual aid and self protection.

The phrase frequently heard at American college and university commencement cermonies when degrees are awarded, "we confer the privilege and communities thereunto pertaining," may be traced to the privileges awarded medieval scholars. These privileges also provide the historical origins of what we now call tenure.

American Developments

Prior to the 20th century, most faculty contracts were for one term and lasted only for the duration of that term. American colleges and universities of the pre 20th century era were firmly governed by that uniquely American constitution to higher education, the lay boards. The lay boards, along with the local administration, had almost total control of personnel decisions, while faculty were viewed solely as employees who did not make management decisions.

An occasional endowed chair created at Harvard prior to the 20th century offered de facto tenure. Further, in an effort to recruit academic talent, Thomas Jefferson was reported to have offered what amounted to informal tenure to certain individuals at the University of Virginia.

Beyond these and a few other isolated instances, however, tenure did not exist as such in American colleges and universities until after the arrival of the 20th century.

At that time, the issue of academic freedom began to gain considerable attention. Some writers have suggested that this concern for academic freedom lead directly to the establishment of the privilege of tenure, and to the predominance of tenure systems as we know them today.

The Ross and Fisher Cases

The concern for academic freedom occurred largely as a reaction to the Ross Case at Stanford University, the Fisher Case at Wesleyan University, and several other similar but less famous events. The Ross Case concerned the questionable dismissal of Edward A. Ross from Stanford in 1900. Ross was an economist who sought to influence public policy in controversial areas. Among other issues, he sought a free silver system, a ban on oriental immigration, and the municipal ownership of utilities. He also call for public scrutiny of the Southern Pacific Railroad. Largely because he held this last viewpoint, Jane Lanethrop Stanford , widow of a California railroad baron and sole trustee of Stanford University at the time, call for Ross's dismissal. While David Starr Jordan, then President of Stanford, reportedly wished to protect Professor Ross from external pressures, the President was also acutely aware that the success of the University depended upon the generosity of its benefactress. Feeling this generosity threatened, Jordan was forced to seek and secure Ross's resignation. Ross's resignation received wide national attention within academe, and intensified those voices calling for the need to ensure academic freedom through the awarding of tenure.

Another questionable dismissal of a university professor brought further attention to the issue of academic freedom. In 1913, Willard C. Fisher, professor of economist as Wesleyan University was forced to resign his position. This resignation was prompted by comments that Fisher made a speech off the Wesleyan campus in another town. In that speech, Fisher called for "less rigid observance of the Sabbath and the Subordination of church going to good works" (Metzger, 1973, p. 146). For advancing these views, the President of Wesleyan informed Fisher that he was "out of harmony with the spirit of the college" and should resign (personal communication; W.A. Shanklin to W.C. Fisher; January 27, 1913. Published in American Economic Review, March 1913, 3, 258).

Formation of the AAUP

Largely as a response to these and other similar events, a letter was distributed in the Spring of 1913. This letter, signed by 18 full professors on the faculty of Johns Hopkins University, was sent to colleagues of equal rank at nine other universities. Essentially, the letter stated that the scholarly and scientific interests of university professors was being well served by the disciplinary societies. However, the institutional and societal interests which were equally important was not, according to the letter, being adequately addressed.

The man who created the letter sent from Johns Hopkins was Arthur Lovejoy, a philosopher on the faculty. It is not mere coincidence that Lovejoy had been a young assistant professor on the faculty of Stanford, closely observing as the events unfolded during Edward Ross's dismissal. In fact, Lovejoy had resigned his position at Stanford to protest the action taken against Ross.

After receiving the letter developed by Lovejoy, 600 eminent professors accepted an invitation to become charter members in an organization designed to promote collective action on the part of university professors. In January, 1915, a convention was held at which the American Association of University Professors (AAUP) was born.

The AAUP proposed the general principles respecting tenure and academic freedom at that convention. They also suggested that tenure was a means of securing academic freedom. Additionally, the membership established a judicial committee to investigate and report cases in which freedom was alledged to have been compromised by administrators or others. To a significant extent, the collective action in promoting tenure which was pursued by the AAUP over the years since 1915, has lead to the existence of the tenure system as we know it today.

Present Developments

In the United States today, the vast majority of university faculty members teach at institutions that have a tenure system. The courts have generally extended the rights of free speech to faculty members are citizens. No faculty member may be dismissed for exercising the constitutional rights of free speech and free assembly. Some observers have suggested that tenure, as it functions in the present American environment, is not so much associated with academic freedom as it is with job security. Much continues to be written supporting and opposing the system as it now exists.

CHAPTER IV

TENURE IN THE UNITED STATES

Prevalence

Although there is significant variation in how the system function from institution to institution, a clear majority of colleges and universities in America operate under a tenure system. A general overview may be obtained by approximating statistics gathered from the Keast Commission and the National Center for Higher Education Management System (NCHEMS).

Roughly 85% of all colleges and universities employing 95% of all full time faculty operate under a tenure system. Virtually all public universities and colleges have a tenure system, while 94% of all private colleges have a tenure system. Although it is generally called a continuing contract arrangement, 65% of all private and public community colleges also operate under a tenure system.

More current data will be included in Part II of this report concerning the prevalence of tenure. Updated information regarding Florida's State University System and community colleges, as well as national trends, will be reported when the data collection is completed. At this writing, however, it is reliable to report that tenure plans are pervasive in postsecondary education in Florida and across the nation. Using presently available data, percentage of Faculty tenured from state to state ranges from roughly around 45% to over 70%.

Differences Among Institution

In public colleges and universities a tenure plan is usually promulgated by a governing board. This plan is generally considered a form of sublegislation having the force of law. The courts have stressed that adequate procedures must be observed throughout all tenure proceedings In cases involving public colleges and universities, the courts have ordered the reinstatement of professors terminated for questionable reasons. The probationary period at public institutions is typically from five to seven years with the "up or out rule" generally practiced. A greater percentage of faculty members at public institutions are tenured, than are their counterparts at private institutions.

At private institutions, any right to tenure is contractual rather than statutory. In cases involving questionable termination of tenured faculty members at private institutions, the courts have not ordinarily issued a specific order of reinstatement. If the courts concluded that a contract had been reached through failure to observe its tenure provisions, restitution may be ordered in the form of financial damages, but seldom will the court order the private institution to rehire the tenured professor. Private institutions generally have longer probationary periods and fewer tenured faculty in their ranks than do public institutions.

At research institutions,be they public or private, the production of new knowledge through research and publication becomes a prime concern in the awarding of tenure. Teaching and service are also considered, but most observers agree that the production of research plays a vital role.

At four year liberal arts colleges, the ability to teach is generally stressed in the process of awarding tenure. This is also true for community colleges. At community colleges, instructors usually receive annual contracts for three years. If after these three years their evaluations are positive and their services are still needed, instructors are awarded continuing contract status.

Typical Nomination Procedure

As with all aspects of tenure in American higher education, considerable variation exists regarding procedures for awarding tenure. The following description will be a synthesis of many models, with an emphasis on procedures generally practiced at public research universities.

A faculty member is usually eligible for tenure if he or she has served in a tenure track position or the equivalent for five years. In some cases, the tenure decision may be delayed until the sixth or seventh year. This decision may be at the discretion of the administration, or in some cases, the faculty member.

The first stage in the awarding process is the preparation of a tenure packet by the faculty member. The information contained within the tenure packet is provided to assist those individuals who evaluate the nominee. A typical packet will include the following information, among other items:

1. brief description of present job duties,
2. areas of specialization,
3. assigned activity in the last five years,
4. education record,
5. employment record,
6. a list and copies of publications in specific categories,
7. a list of creative works,
8. a list of contracts and grants,

9. a list of major consultations outside the university,
10. a list of university and professional service
11. number and description of graduate committee memberships, and
12. student evaluations of teaching.

A sample form used to generate a tenure packet is included in Appendix E. This form was drawn from the Office of Academic Affairs at the University of Florida. A sample memorandum outlining guidelines for developing a tenure packet is included in Appendix F. The source for this memo was also the Office of Academic Affairs at the University of Florida.

After the compiling of a tenure packet, the official nomination originates with the appropriate department chairperson or administrator in charge of the academic department concerned. The chairperson or administrator obtains the opinions and votes of the department by secret ballot. He or she then makes a recommendation. That tenure recommendation is then typically forwarded to a standing tenure committee within the college concerned. That tenure committee, in turn, makes recommendations to the dean of the relevant college.

It should be emphasized that typically the review of the tenure committee is relatively exhaustive. The nominee will be interviewed on numerous occasions. Copies of the nominee's publication will be reviewed in order to determine the degree of quality. References outside the college or university will be contacted in order to better establish the nominee's stature within his or her discipline.

Frequently, tenure committees will perform what is commonly known as a market test of the nominee's teaching and scholarship. This so-called market test usually includes the comparison of the nominee's work to the achievements and contributions of peers at distinguished universities and colleges. The nominee's work must appear to be of sufficient quality when compared to the work of outstanding peers in order for the committee to make a favorable recommendation.

Upon leaving the college, recommendations are forwarded to, and must be approved by, the faculty senate or equivalent, the vice president for academic affairs of the university, the president of the university, and the governing board. Tenure is generally considered finalized upon the approval of the governing board.

Most colleges and universities establish three board categories for consideration throughout the tenure nominating procedure. The three categories are instruction, research, and service. Generally, faculty members must attain "distinction in at least two of these three categories." Distinction is generally defined as appreciably better than the usual college faculty member of the candidate's present rank and field.

To clarify this process further, samples of sections dealing with tenure drawn from a university constitution appear in Appendix G. A sample section dealing with tenure drawn from a faculty handbook appears in Appendix H.

CHAPTER V

DISCUSSION OF CURRENT ISSUES

Periodically, the value of the tenure system is reexamined by those wishing to influence American higher education. A number of factors seem to have rekindled this discussion in the last few years, including the following: declining enrollments, retrenchment, financial constraints, diminished public confidence in the quality of higher education, and increased demand for change in academic offerings. This chapter will attempt to sketch the parameters of this discussion by citing some of the more frequently heard arguments supporting and opposing the tenure system as it operates today. A few alternatives to what is generally practiced will also be considered. Again, the reader wishing a more thorough discussion should consult the bibliography at the end of this report for further study. Literature by Smith (1973), Chait and Ford (1982), O'Toole (1979 and 1980), Tucker and Mautz (1982) and the 1984-1985 series of articles drawn from the Chronicle of Higher Education that appear in Appendix C of this report, would be of particular value.

Frequently Cited Arguments Supporting the Present Tenure System

As discussed in the historical overview section of this report, tenure has been regarded as a means of ensuring academic freedom. Around the turn of the 20th century when universities and colleges began to delve further into the social and economic problems of society, a need was felt to ensure that the professional investigators of faculty were not subjected to outside pressure and perhaps prejudices. It is argued that since freedom only exists when one does not fear for the loss of livelihood, a tenure system is needed as a means of ensuring this freedom.

Second, it is argued that since tenured faculty form an independent body, they are capable of providing a strong voice to protect all in academe. Having a group of senior faculty members on tenure protects the tenured and nontenured alike from capricious and arbitrary action.

Third, some suggest that by creating a faculty with a long-term commitment to the institution, tenure contributes to institutional stability. Because of the long term commitment that tenure brings, for example, faculty members may take a more active role in maintaining academic standards and integrity on an institutional rather than a personal level. While not completely endorsing the system, one observer stated that tenure has been viewed as the national "expression of the human concern for continuity and stability in personal, social, professional, and business life" (Silber 1973, p. 39). As such, some believe that it contributes to institutional stability because it attends to the "human expectation that there be continuity in life, that there be a quid pro quo, that associations among individuals and between individuals and institutions be orderly rather than chaotic, responsible rather than capricious" (Silber, 1973, p. 42).

Fourth, it has been suggested that tenure, by forcing institutions at a definite time to decide on whom to confer continuing employment and whom to terminate, helps to avoid continuing those who are agreeable but not outstanding. Tenure, by enforcing the "up or out" precedent, helps to ensure that only those who have achieved distinction in their field will become permanent. Likewise, by forcing a crucial decision, tenure helps to avoid promotions made out of administrative generosity or neglect.

Fifth, proponents of tenure argue that it encourages promotion decisions to be based upon professional grounds and not on grounds of competitive personal advantage. By allowing the nominee to demonstrate a wide variety of service, instruction, and research contributions, the tenure system is a hedge against favoritism or prejudice. This argument is founded upon the belief that the development of an extensive tenure packet (see Appendix E and F) helps to encourage decisions based upon clearly defined professional criteria.

Sixth, tenure has an economic value that helps offset the generally lower financial rewards of higher education. The economic value offered by job security may help to entice talented men and women to enter, or remain in the profession, who otherwise might go elsewhere.

Finally, since most other professions have an informal de facto tenure system, there is a psychological advantage to maintaining the system in higher education. As Tucker and Mautz (1982) stated

> "the psychological trauma of abolishing tenure would be enormous and disrupting. The implication would be destruction of the symbol of the precious privilege of unfettered exploration, examination, and criticism" (p. 25).

Frequently Cited Arguments Opposing the Present Tenure System

Those who suggest that tenure in American higher education is unnecessary frequently suggest that it is not necessary to ensure academic freedom. What is necessary, they suggest, are sound academic due process procedures. Since the courts have long since guaranteed free speech and assembly, the rigid adherence to fair internal procedures would ensure that a spirit of free inquiry exists. This spirit of free inquiry, unfettered by concerns for ones livelihood, would prevail in academe without tenure if internal procedures guarded against capricious and arbitrary dismissals.

Some critics argued that not only is tenure unnecessary to maintain academic freedom, it actually inhibits its free expression. Too often, these critics argue, junior faculty members must rigidly conform to the norms of their department or not be voted to receive tenure. It has been stated that

> the censuring of the nontenured faculty from the standpoint of a doctrinal orthodoxy by the senior men within a department represents by far the most serious and most frequent violation of academic freedom in our colleges and universities (Silber, 1973, p. 51).

Many books including Future Shock, The Third Wave, Megatrends, and Encounters with the Future have noted the rapidly accelerating rate of change in our society. This accelerating rate of change, some observers argue, demands similar change in our colleges and universities. While colleges and universities strive to meet these demands for change, a second often-mentioned argument suggests that tenure imposes an inflexible burden upon institutions. With the faculty permance that it implies, tenure promotes curricula inflexibility, increases financial pressures during enrollment declines, and generally lowers the institution's ability to adapt to changing conditions.

Third, in keeping with the argument that tenure breeds institutional inflexibility, tenure diminishes the institution's ability to recruit and retain younger faculty, minorities, and women. It has been argued that tenure reduces job mobility on a massive scale in academe. This reduction in mobility leads to the lack of new positions that otherwise might be filled by young faculty, minorities, and women.

Fourth, it has been suggested that there exists an inherent unfairness in the awarding of tenure. This unfairness, to the extent that it exists, lies in the fact that tenure commits the institution to the individual but not the individual to the institution. Tenured faculty conceivably may leave for another position without regard for the damage that the departure causes to their respective department.

Fifth, by virtually ensuring permanence of appointment, it is suggested that tenure diminishes accountability. Critics have argued that the periodic evaluation built into a contract system would help to establish greater accountability and eventually greater quality in our educational institutions.

Sixth, it is argued that tenure works against the concept of quality by making the first few years of a faculty members life a frantic race to establish himself or herself. Silber (1973) succinctly discussed this issue when he described the seven year "up or out" tradition in the following manner

> "The seven-year rule drives young scholars in our over worked field into wanton production of the obvious, the unnecessary, or the speciously innovative. Well aware that they must make their mark within six years, young faculty rarely have the time to think, explore, speculate, and grow in silence and privacy. The young faculty member is not allowed to ripen at his own pace and thereby to produce something worthy of oral production in the classroom and written publication in books or articles. The seven year rule too often rewards the fast and flashy scholar rather than the scholar whose power develops at a slower pace but more profoundly" (p. 49).

Finally, many opponents of the current tenure system suggest that it leads to a diminished emphasis on quality undergraduate teaching. Since the production of research is easier to quantify than is teaching, candidates for tenure will concentrate their efforts in that area. It is suggested that this concentration on producing what can be quantified leads to a deemphasis on teaching, which lends itself to qualitative evaluation.

Alternatives to Traditional Tenure

As is the case in the application of tenure arrangements throughout America, there exists a wide variation in the application of non-tenure and modified tenure arrangements. This section will mention a few of these alternatives, and will make a few generalizations regarding them. No attempt will be made to argue the pros and cons of each alternative. The reader is referred to Richard B. Chait's and Andrew T. Ford's (1982) work, Beyond Traditional Tenure, for a more thorough treatment of this topic.

A very few institutions in America operate under a short-term contract system. These schools employ faculty members solely on a term contract basis. Under these systems, reappointment is based upon performance and need for the services. Usually contracts are from one to three years in length. Once the length of the contracts are decided, all faculty within the institution receive contracts for the same duration.

A so-called rolling term contract occasionally has been employed as well. Under this system

> faculty normally serve a probationary period no longer than seven years on annual or two-year contracts. Thereafter, the college issues a three-year contract, which continues automatically and indefinitely as long as the faculty member performs satisfactorily. Thus, a contract issued for Year One through Year Three would be extended through Year Four at the end of Year One and extended through Year Five at the end of Year Two - contingent, of course, on satisfactory performance. (Chait and Ford, 1982, p. 64)

Multi-year contracts also have become relatively common at community colleges. A typical arrangement would function in the following manner: Faculty begin employement under three one-year contracts. Satisfactorily judged faculty then receive a three-year contract, followed by successive five-year contracts. The Virginia Community College System, for example, operates under a multi-year contract system similar to the one described above.

Other arrangements described as growth contracts involve individually negiotated contracts. This plan requires that the individual faculty member and an administrator negiotate what the faculty member should accomplish within a specified period of time. These individually negiotated plans usually reoccur every three to five years.

While tenure decisions require time, energy, and attention, most observers agree that any of the contract systems outlined above consumes a greater amount of time, engages a greater number of people, and generates a greater amount of material than a tenure system. Contract systems, it also is generally agreed, work better in smaller environments than in larger environments.

There are several arrangements that could be described as modified tenure systems. One such system extends the probationary period beyond the customary seven years. This additional probationary period is intended primarily to provide additional opportunities for more information to be gathered concenring the nominee.

Tenure and non-tenure tracks also have been employed as an alternative to traditional tenure systems. A few colleges and universities with established tenure systems have added non-tenure track positions. Faculty members filling non-tenure positions work under a term contract that cannot accumulate credit towards permanent status. In this system, there are generally three categories of faculty beyond specific rank: tenured, tenure eligible, and tenure ineligible.

A final modification of traditional tenure plans involves the imposing of an upper limit on the percentage of faculty who may hold tenure at a given time. This upper limit generally is called a tenure quota and exists at approximately 300 American colleges and universities, according to Chait and Ford (1982, p. 120). The intent of tenure quotas is to prevent the institutional inflexibility that some observers argue occurs when a high percentage of faculty members become tenured.

Alternatives to the traditional tenure system include such non-tenure options as short term contracts, rolling contracts, multi-year contracts, growth contracts and other options. Modified tenure arrangements include longer probationary periods, two-track systems, quotas and other modifications. Each alternative has advantages and disadvantages. Personnel policies should be carefully studied so that the strengths and weaknesses of the present system, along with possible alternatives, are thoroughly considered.

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BACKGROUND REPORT ON TENURE AND CONTINUING CONTRACTS PRESENTED TO FLORIDA'S POSTSECONDARY EDUCATION PLANNING COMMISSION

PART II

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PART II

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CHAPTER VI

DATA FROM FLORIDA'S STATE UNIVERSITY SYSTEM

This section presents data collected on Florida's State University System. Each table presented was drawn from the Higher Education General Information Survey (HEGIS) of the U.S. Department of Education. Data contained on the nine individual institutional responses to HEGIS XIX for 1984-85 were tabulated and then organized into the following five tables.

Data were reported for nine and twelve month faculty. A significant majority of faculty in Florida's State University System are on a nine month contract. When considering issues related to tenure, data drawn from nine month faculty are generally of greater significance than data drawn from twelve month faculty. Tables relating to nine month faculty appear first and tables relating to twelve month faculty follow.

The University of West Florida has the highest percentage of nine month male faculty on tenure (81%). Florida International University is the lowest in the same category (55%). Florida State University has the highest percentage of nine month female faculty on tenure (54%) with the University of Central Florida and Florida International University having the lowest percentage in the same category (32%).

Ninety-six percent of the University of Central Florida's male twelve month faculty are tenured. That is the highest percentage in that category. However, there are only 30 twelve month male faculty members. FIU has the lowest percentage of twelve month male faculty (31%).

There are relatively few twelve month female faculty members. The University of Florida has a significant majority of the total female faculty in this category with 282 out of 394 in the total system. FIU, FAMU, and FAU do not have any tenured faculty within this category. Fifty percent of FSU and UCF's twelve month female faculty are tenured. This figure is the highest within this category.

The following are tables displaying numbers and percentages of male and female faculty on nine and twelve month contracts in Florida's State University System.

Table I

Florida's SUS 1984-1985 Number of Faculty on 9-Month Contract

	Male		Female	
	Number of Persons	Number With Tenure	Number of Persons	Number With Tenure
FIU	277	155	104	34
FAU	241	183	61	30
FAMU	173	97	81	36
FSU	702	540	204	112
UCF	352	215	82	27
UNF	107	73	45	20
UWF	157	128	45	19
UF	879	652	152	76
USF	662	497	153	75
Totals	3,550	2,540	927	429
Statewide % of tenured		71%		46%

Source: HEGIS XIX, 1984-1985

Table II

Florida's SUS 1984-1985 Faculty on 9-Month Contract
Percentage of Tenured Faculty

College	% Male Tenured	% Female Tenured	Total % Tenured
FIU	55	32	49
FAU	75	49	70
FAMU	56	44	52
FSU	76	54	71
UCF	61	32	55
UNF	68	44	61
UWF	81	42	72
UF	74	50	70
USF	75	49	70
Statewide	71	46	66

Source: HEGIS XIX, 1984-1985

Table III

Florida's SUS 1984-1985 Faculty on 12-Month Contract

	Male		Female	
	Number of Persons	Number with Tenure	Number of Persons	Number with Tenure
FIU	19	6	27	0
FAU	27	16	0	0
FAMU	18	6	22	0
FSU	3	1	2	1
UCF	30	29	2	1
UNF	19	12	11	4
UWF	40	25	8	3
UF	1,161	589	282	56
USF	80	48	40	15
Totals	1,397	732	394	80
Statewide % of tenured		52%		20%

Source: HEGIS XIX, 1984-1985

Table IV

Florida's SUS 1984-1985 Faculty on 12-Month Contract
Percentage of Tenured Faculty

College	% Male Tenured	% Female Tenured	Total Tenured
FIU	31	0	13
FAU	59	0	59
FAMU	33	0	15
FSU	33	50	40
UCF	96	50	93
UNF	63	36	53
UWF	62	37	58
UF	50	19	44
USF	60	37	52
Statewide	52	20	45

Source: HEGIS XIX, 1984-1985

Table V

Florida's SUS 1984-1985
Faculty Totals: All Universities and Nine and Twelve Month Contract

Total Number of Faculty: Nine and Twelve Month Contract: Male and Female	6,268
Total Number of Faculty on Tenure: Nine and Twelve Month Contract Male and Female	3,781
Percentage of Total Tenured: Nine and Twelve Month Contract: Male and Female	60%

Source: HEGIS XIX, 1984-1985

CHAPTER VII

DATA DRAWN FROM FLORIDA'S COMMUNITY COLLEGE SYSTEM

This section displays data drawn from the twenty eight individual community colleges. The data was tabulated by combining information on the individual institutional HEGIS XIX reports for 1984-1985.

Approximately 80% of the faculty in Florida's Community College System were reported to be on continuing contract. As stated elsewhere in this document, continuing contract is generally granted to an instructor after three consecutive years of successful probationary service.

The majority of instructors in Florida's Community College System were reported to be on nine month contracts. A few colleges place instructors on ten month or ten and a half month contracts. In these instances, the data were filed within the nine month categories.

However, only a very small number of instructors at M-DCC were reported to be on a nine month contract. The reader should not, therefore, place undue emphasis on the percentages of tenured faculty at M-DCC falling within the nine month category.

The following tables display data drawn from Florida's twenty eight community colleges.

Table VI

Florida Community Colleges 1984-85
Faculty on 9-Month Contract

	Male		Female	
	Number of Persons	No. in College with Tenure	Number of Persons	No. in College with Tenure
Brevard	132	112	78	58
*Broward (10 month)	170	141	123	98
Central Fla.	63	44	29	21
Chipola	23	19	26	21
Daytona Beach	87	67	67	49
Edison	46	33	31	19
Fla. Junior @ Jax.	7	6	11	11
Fla. Keys	26	20	5	3
Gulf Coast	34	27	31	26
*Hillsborough(10½ mt)	107	96	73	57
Indian River	55	38	46	31
Lake City	19	17	13	11
Lake-Sumter	23	17	16	10
Manatee	n/a	n/a	n/a	n/a
Miami-Dade	10	10	21	21
North Florida Jr.	16	13	11	9
Okaloosa-Walton	43	31	27	23
Palm Bch. Junior	105	77	78	58
Pasco-Hernando	2	1	8	2
Pensacola Junior	149	130	118	93
Polk	59	55	41	34
St. Johns River	33	23	12	9
St. Petersburg	155	128	128	89
Santa Fe	103	85	105	85
Seminole	46	39	43	31
South Fla. Junior	19	18	13	7
Tallahassee	41	24	40	32
Valencia	87	74	71	50
Totals	1,660	1,345	1,265	958

Statewide % of male tenured 81% Statewide % of female tenured 75%

Source: HEGIS XIX, 1984-1985

Table VII

Florida Community Colleges 1984-85 Faculty on 9-Month Contract
Percentage of Tenured Faculty

College	% Male Tenured	% Female Tenured	Total % Tenured
Brevard	84	74	80
Broward	82	79	81
Central Fla.	69	72	70
Chipola	82	80	81
Daytona Beach	77	73	75
Edison	71	61	67
Fla. Junior @ Jax.	85	100	94
Fla. Keys	76	60	74
Gulf Coast	79	83	81
Hillsborough	89	78	85
Indian River	69	67	68
Lake City	89	84	87
Lake-Sumter	73	62	69
Manatee			
Miami-Dade	100	100	100
North Florida Junior	81	81	81
Okaloosa-Walton	72	85	77
Palm Beach Junior	73	74	73
Pasco-Hernando	50	25	30
Pensacola	87	78	83
Polk	93	82	89
St. Johns River	69	75	71
St. Petersburg	82	69	76
Santa Fe	82	80	81
Seminole	84	72	78
South Fla. Junior	94	53	78
Tallahassee	58	80	69
Valencia	85	70	78
Statewide	81	75	77

Source: HEGIS XIX, 1984-1985

Table VIII

Florida Community Colleges 1984-85
Faculty on 12-Month Contract by College

	Male		Female	
	Number of Persons	No. in College with Tenure	Number of Persons	No. in College with Tenure
Brevard	3	3	7	4
Broward	0	0	0	0
Central Fla.	1	0	0	0
Chipola	6	4	1	1
Daytona Bch.	17	11	14	8
Edison	2	2	0	0
Fla. Jr @ Jax	196	169	172	144
Fla. Keys	0	0	1	
Gulf Coast	7	7	1	1
Hillsborough	2	1	1	0
Indian River	1		0	0
Lake City	31	29	7	5
Lake-Sumter	0	0	0	0
Manatee	n/a	n/a	n/a	n/a
Miami-Dade	439	395	256	219
North Fla. Jr.	0	0	2	2
Okaloosa-Walton	2	2	0	0
Palm Beach Jr.	0	0	0	0
Pasco-Hernando	20	18	14	9
Pensacola	1	1	2	0
Polk	2	1	4	3
St. Johns River	3	3	0	0
St. Petersburg	3	3	6	3
Santa Fe	17	12	7	4
Seminole	18	15	9	5
South Fla.	0	0	1	1
Tallahassee	1	1	0	0
Valencia	0	0	2	0
Totals	772	677	507	409

Statewide % of male tenured 87% Statwide % of female tenured 80%

Source: HEGIS XIX, 1984-1985

Table IX

Florida Community Colleges 1984-85 Faculty on 12-Month Contract
Percentage of Tenured Faculty

College	% Male Tenured	% Female Tenured	Total % Tenured
Brevard	100	57	70
Broward	0	0	0
Central Florida	0	0	0
Chipola	66	100	71
Daytona Beach	64	57	61
Edison	100	0	100
Fla. Junior @ Jax	86	83	85
Fla. Keys	0		
Gulf Coast	100	100	100
Hillsborough	50	0	33
Indian River		0	
Lake City	93	71	89
Lake-Sumter	0	0	0
Manatee			
Miami-Dade	89	85	88
North Florida Junior	0	100	100
Okalaloosa-Walton	100	0	100
Palm Beach Junior	0	0	0
Pasco-Hernando	90	64	79
Pensacola	100	0	33
Polk	50	75	66
St. Johns River	100	0	100
St. Petersburg	100	50	66
Santa Fe	70	57	66
Seminole	83	55	74
South Fla. Junior	0	100	100
Tallahassee	100	0	100
Valencia	0	0	0
Statewide	87	80	85

Source: HEGIS XIX, 1984-1985

Table X

HEGIS XIX Florida Community Colleges
1984-1985
Faculty Totals: All Colleges and 9 and 12 Month Contracts

Total Number of Faculty: All Colleges, 9 & 12 Month Contract Male and Female	4,204
Total Number of Faculty on Tenure: All Colleges, 9 & 12 Month Contract Male and Female	3,389
Percentage of Total Tenured: All Colleges, 9 & 12 Month Contract Male and Female	80%

CHAPTER VIII

DATA SUPPLIED FROM THE UNITED STATES DEPARTMENT OF EDUCATION

The following list of statistics offers an overview of national data on-tenure in America's institutions of higher education. This information combines information gathered from the HEGIS XIX reports of 1982-1983 from the fifty states and the District of Columbia.

Various data are presented on nine and twelve month faculty reported by institutional units of higher education, sex of faculty member, and by region, state, and other areas.

This information was provided by Ms. P. Elaine Kroe of the U.S. Department of Education, National Center for Education Statistics in Washington, D.C. Ms. Kroe may be contacted at telephone number (202) 254-6503.

BLE 4.--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

ALL INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
UBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	402,413	293,931	108,482	240,188	191,288	48,900	59.7	65.1	45.1
PROFESSOR.	111,782	99,817	11,965	104,468	93,516	10,952	93.5	93.7	91.5
ASSOCIATE PROFESSOR. .	98,423	76,758	21,665	78,556	61,439	17,117	79.8	80.0	79.0
ASSISTANT PROFESSOR. .	94,151	60,201	33,950	24,340	14,801	9,539	25.9	24.6	28.1
INSTRUCTOR	28,851	13,933	14,918	2,430	1,245	1,185	8.4	8.9	7.9
LECTURER	6,361	3,340	3,021	694	370	324	10.9	11.1	10.7
NO ACADEMIC RANK . . .	62,845	39,882	22,963	29,698	19,917	9,781	47.3	49.9	42.6
UBLIC									
ALL RANKS COMBINED . . .	290,873	212,045	78,828	184,924	145,705	39,219	63.6	68.7	49.8
PROFESSOR.	78,913	70,431	8,482	75,282	67,323	7,959	95.4	95.6	93.8
ASSOCIATE PROFESSOR. .	69,323	54,133	15,190	58,409	45,706	12,703	84.3	84.4	83.6
ASSISTANT PROFESSOR. .	62,668	40,195	22,473	19,610	11,917	7,693	31.3	29.6	34.2
INSTRUCTOR	19,534	9,331	10,203	2,142	1,097	1,045	11.0	11.8	10.2
LECTURER	5,131	2,697	2,434	680	363	317	13.3	13.5	13.0
NO ACADEMIC RANK . . .	55,304	35,258	20,046	28,801	19,299	9,502	52.1	54.7	47.4
RIVATE									
ALL RANKS COMBINED . . .	111,540	81,886	29,654	55,262	45,583	9,679	49.5	55.7	32.6
PROFESSOR.	32,869	29,386	3,483	29,186	26,193	2,993	88.8	89.1	85.9
ASSOCIATE PROFESSOR. .	29,100	22,625	6,475	20,147	15,733	4,414	69.2	69.5	68.2
ASSISTANT PROFESSOR. .	31,483	20,006	11,477	4,730	2,884	1,846	15.0	14.4	16.1
INSTRUCTOR	9,317	4,602	4,715	288	148	140	3.1	3.2	3.0
LECTURER	1,230	643	587	14	7	7	1.1	1.1	1.2
NO ACADEMIC RANK . . .	7,541	4,624	2,917	897	618	279	11.9	13.4	9.6

TABLE 4.1--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

UNIVERSITY UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	124,402	100,370	24,032	81,512	71,200	10,312	65.5	70.9	42.9
PROFESSOR.	48,708	45,528	3,180	47,162	44,137	3,025	96.8	96.9	95.1
ASSOCIATE PROFESSOR. .	35,079	28,671	6,408	29,401	24,032	5,369	83.8	83.8	83.8
ASSISTANT PROFESSOR. .	31,148	21,455	9,693	4,557	2,828	1,729	14.6	13.2	17.8
INSTRUCTOR	5,674	2,637	3,037	277	127	150	4.9	4.8	4.9
LECTURER	3,047	1,625	1,422	110	71	39	3.6	4.4	2.7
NO ACADEMIC RANK . . .	746	454	292	5	5	0	0.7	1.1	0.0
PUBLIC									
ALL RANKS COMBINED . . .	90,684	73,475	17,209	61,179	53,443	7,736	67.5	72.7	45.0
PROFESSOR.	35,674	33,409	2,265	34,674	32,516	2,158	97.2	97.3	95.3
ASSOCIATE PROFESSOR. .	25,937	21,307	4,630	22,553	18,518	4,035	87.0	86.9	87.1
ASSISTANT PROFESSOR. .	21,983	15,241	6,742	3,617	2,233	1,384	16.5	14.7	20.5
INSTRUCTOR	4,188	1,903	2,285	230	105	125	5.5	5.5	5.5
LECTURER	2,321	1,251	1,070	100	66	34	4.3	5.3	3.2
NO ACADEMIC RANK . . .	581	364	217	5	5	0	0.9	1.4	0.0
PRIVATE									
ALL RANKS COMBINED . . .	33,718	26,895	6,823	20,335	17,757	2,578	60.3	66.0	37.8
PROFESSOR.	13,034	12,119	915	12,488	11,621	867	95.8	95.9	94.8
ASSOCIATE PROFESSOR. .	9,142	7,364	1,778	6,848	5,514	1,334	74.9	74.9	75.0
ASSISTANT PROFESSOR. .	9,165	6,214	2,951	940	595	345	10.3	9.6	11.7
INSTRUCTOR	1,486	734	752	47	22	25	3.2	3.0	3.3
LECTURER	726	374	352	10	5	5	1.4	1.3	1.4
NO ACADEMIC RANK . . .	165	90	75	0	0	0	0.0	0.0	0.0

ABLE 4.3--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

OTHER 4-YEAR INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	186,143	135,791	50,352	108,584	86,501	22,083	58.3	63.7	43.9
PROFESSOR.	56,134	49,019	7,115	51,204	44,726	6,478	91.2	91.2	91.0
ASSOCIATE PROFESSOR. .	53,472	41,471	12,001	41,020	31,908	9,112	76.7	76.9	75.9
ASSISTANT PROFESSOR. .	52,502	32,662	19,840	14,214	8,645	5,569	27.1	26.5	28.1
INSTRUCTOR	16,879	8,234	8,645	1,056	529	527	6.3	6.4	6.1
LECTURER	2,953	1,562	1,391	474	252	222	16.1	16.1	16.0
NO ACADEMIC RANK . . .	4,203	2,843	1,360	616	441	175	14.7	15.5	12.9
PUBLIC									
ALL RANKS COMBINED . . .	114,231	84,039	30,192	74,514	59,216	15,298	65.2	70.5	50.7
PROFESSOR.	36,612	31,962	4,650	34,644	30,248	4,396	94.6	94.6	94.5
ASSOCIATE PROFESSOR. .	33,891	26,452	7,439	27,880	21,796	6,084	82.3	82.4	81.8
ASSISTANT PROFESSOR. .	30,788	19,173	11,615	10,522	6,396	4,126	34.2	33.4	35.5
INSTRUCTOR	9,653	4,627	5,026	859	423	436	8.9	9.1	8.7
LECTURER	2,458	1,297	1,161	470	250	220	19.1	19.3	18.9
NO ACADEMIC RANK . . .	829	528	301	139	103	36	16.8	19.5	12.0
PRIVATE									
ALL RANKS COMBINED . . .	71,912	51,752	20,160	34,070	27,285	6,785	47.4	52.7	33.7
PROFESSOR.	19,522	17,057	2,465	16,560	14,478	2,082	84.8	84.9	84.5
ASSOCIATE PROFESSOR. .	19,581	15,019	4,562	13,140	10,112	3,028	67.1	67.3	66.4
ASSISTANT PROFESSOR. .	21,714	13,489	8,225	3,692	2,249	1,443	17.0	16.7	17.5
INSTRUCTOR	7,226	3,607	3,619	197	106	91	2.7	2.9	2.5
LECTURER	495	265	230	4	2	2	0.8	0.8	0.9
NO ACADEMIC RANK . . .	3,374	2,315	1,059	477	338	139	14.1	14.6	13.1

TABLE 4.3--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

2-YEAR INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	91,868	57,770	34,098	50,090	33,587	16,503	54.5	58.1	48.4
PROFESSOR.	6,940	5,270	1,670	6,102	4,653	1,449	87.9	88.3	86.8
ASSOCIATE PROFESSOR. .	9,872	6,616	3,256	8,135	5,499	2,636	82.4	83.1	81.0
ASSISTANT PROFESSOR. .	10,501	6,084	4,417	5,569	3,328	2,241	53.0	54.7	50.7
INSTRUCTOR	6,298	3,062	3,236	1,097	589	508	17.4	19.2	15.7
LECTURER	361	153	208	110	47	63	30.5	30.7	30.3
NO ACADEMIC RANK . . .	57,896	36,585	21,311	29,077	19,471	9,606	50.2	53.2	45.1
PUBLIC									
ALL RANKS COMBINED . . .	85,958	54,531	31,427	49,231	33,046	16,185	57.3	60.6	51.5
PROFESSOR.	6,627	5,060	1,567	5,964	4,559	1,405	90.0	90.1	89.7
ASSOCIATE PROFESSOR. .	9,495	6,374	3,121	7,976	5,392	2,584	84.0	84.6	82.8
ASSISTANT PROFESSOR. .	9,897	5,781	4,116	5,471	3,288	2,183	55.3	56.9	53.0
INSTRUCTOR	5,693	2,801	2,892	1,053	569	484	18.5	20.3	16.7
LECTURER	352	149	203	110	47	63	31.3	31.5	31.0
NO ACADEMIC RANK . . .	53,894	34,366	19,528	28,657	19,191	9,466	53.2	55.8	48.5
PRIVATE									
ALL RANKS COMBINED . . .	5,910	3,239	2,671	859	541	318	14.5	16.7	11.9
PROFESSOR.	313	210	103	138	94	44	44.1	44.8	42.7
ASSOCIATE PROFESSOR. .	377	242	135	159	107	52	42.2	44.2	38.5
ASSISTANT PROFESSOR. .	604	303	301	98	40	58	16.2	13.2	19.3
INSTRUCTOR	605	261	344	44	20	24	7.3	7.7	7.0
LECTURER	9	4	5	0	0	0	0.0	0.0	0.0
NO ACADEMIC RANK . . .	4,002	2,219	1,783	420	280	140	10.5	12.6	7.9

TABLE 8.1--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

UNIVERSITY UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	124,402	100,370	24,032	81,512	71,200	10,312	65.5	70.9	42.9
PROFESSOR.	48,708	45,528	3,180	47,162	44,137	3,025	96.8	96.9	95.1
ASSOCIATE PROFESSOR. .	35,079	28,671	6,408	29,401	24,032	5,369	83.8	83.8	83.8
ASSISTANT PROFESSOR. .	31,148	21,455	9,693	4,557	2,828	1,729	14.6	13.2	17.8
INSTRUCTOR	5,674	2,637	3,037	277	127	150	4.9	4.8	4.9
LECTURER	3,047	1,625	1,422	110	71	39	3.6	4.4	2.7
NO ACADEMIC RANK . . .	746	454	292	5	5	0	0.7	1.1	0.0
PUBLIC									
ALL RANKS COMBINED . . .	90,684	73,475	17,209	61,179	53,443	7,736	67.5	72.7	45.0
PROFESSOR.	35,674	33,409	2,265	34,674	32,516	2,158	97.2	97.3	95.3
ASSOCIATE PROFESSOR. .	25,937	21,307	4,630	22,553	18,518	4,035	87.0	86.9	87.1
ASSISTANT PROFESSOR. .	21,983	15,241	6,742	3,617	2,233	1,384	16.5	14.7	20.5
INSTRUCTOR	4,188	1,903	2,285	230	105	125	5.5	5.5	5.5
LECTURER	2,321	1,251	1,070	100	66	34	4.3	5.3	3.2
NO ACADEMIC RANK . . .	581	364	217	5	5	0	0.9	1.4	0.0
PRIVATE									
ALL RANKS COMBINED . . .	33,718	26,895	6,823	20,333	17,757	2,576	60.3	66.0	37.8
PROFESSOR.	13,034	12,119	915	12,488	11,621	867	95.8	95.9	94.8
ASSOCIATE PROFESSOR. .	9,142	7,364	1,778	6,848	5,514	1,334	74.9	74.9	75.0
ASSISTANT PROFESSOR. .	9,165	6,214	2,951	940	595	345	10.3	9.6	11.7
INSTRUCTOR	1,486	734	752	47	22	25	3.2	3.0	3.3
LECTURER	726	374	352	10	5	5	1.4	1.3	1.4
NO ACADEMIC RANK . . .	165	90	75	0	0	0	0.0	0.0	0.0

TABLE 8.--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

ALL INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	367,352	271,554	95,798	240,186	191,288	48,898	65.4	70.4	51.0
PROFESSOR.	109,332	97,715	11,617	104,468	93,516	10,952	95.6	95.7	94.3
ASSOCIATE PROFESSOR. .	95,657	74,718	20,939	78,556	61,439	17,117	82.1	82.2	81.7
ASSISTANT PROFESSOR. .	90,755	58,103	32,652	24,340	14,801	9,539	26.8	25.5	29.2
INSTRUCTOR	26,856	12,863	13,993	2,430	1,245	1,185	9.0	9.7	8.5
LECTURER	6,294	3,305	2,989	694	370	324	11.0	11.2	10.8
NO ACADEMIC RANK . . .	38,458	24,850	13,608	29,698	19,917	9,781	77.2	80.1	71.9
PUBLIC									
ALL RANKS COMBINED . . .	268,501	198,080	70,421	184,924	145,705	39,219	68.9	73.6	55.7
PROFESSOR.	78,098	69,760	8,338	75,282	67,323	7,959	96.4	96.5	95.5
ASSOCIATE PROFESSOR. .	68,349	53,454	14,895	58,409	45,706	12,703	85.5	85.5	85.3
ASSISTANT PROFESSOR. .	61,665	39,609	22,056	19,610	11,917	7,693	31.8	30.1	34.9
INSTRUCTOR	18,891	9,008	9,883	2,142	1,097	1,045	11.3	12.2	10.6
LECTURER	5,115	2,691	2,424	680	363	317	13.3	13.5	13.1
NO ACADEMIC RANK . . .	36,385	23,558	12,827	28,801	19,299	9,502	79.2	81.9	74.1
PRIVATE									
ALL RANKS COMBINED . . .	98,851	73,474	25,377	55,262	45,583	9,679	55.9	62.0	38.1
PROFESSOR.	31,236	27,955	3,281	29,186	26,193	2,993	93.4	93.7	91.2
ASSOCIATE PROFESSOR. .	27,308	21,264	6,044	20,147	15,733	4,414	73.8	74.0	73.0
ASSISTANT PROFESSOR. .	29,090	18,494	10,596	4,730	2,884	1,846	16.3	15.6	17.4
INSTRUCTOR	7,965	3,855	4,110	288	148	140	3.6	3.8	3.4
LECTURER	1,179	614	565	14	7	7	1.2	1.1	1.2
NO ACADEMIC RANK . . .	2,073	1,292	781	897	618	279	43.3	47.8	35.7

BLE 8.2--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

OTHER 4-YEAR INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
UBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	176,166	128,597	47,569	108,584	86,501	22,083	61.6	67.3	46.4
PROFESSOR.	54,218	47,324	6,894	51,204	44,726	6,478	94.4	94.5	94.0
ASSOCIATE PROFESSOR. .	51,425	39,901	11,524	41,020	31,908	9,112	79.8	80.0	79.1
ASSISTANT PROFESSOR. .	50,063	31,104	18,959	14,214	8,645	5,569	28.4	27.8	29.4
INSTRUCTOR	15,670	7,528	8,142	1,056	529	527	6.7	7.0	6.5
LECTURER	2,906	1,535	1,371	474	252	222	16.3	16.4	16.2
NO ACADEMIC RANK . . .	1,884	1,205	679	616	441	175	32.7	36.6	25.8
UBLIC									
ALL RANKS COMBINED . . .	112,756	82,988	29,768	74,514	59,216	15,298	66.1	71.4	51.4
PROFESSOR.	36,191	31,603	4,588	34,644	30,248	4,396	95.7	95.7	95.8
ASSOCIATE PROFESSOR. .	33,465	26,140	7,325	27,880	21,796	6,084	83.3	83.4	83.1
ASSISTANT PROFESSOR. .	30,413	18,950	11,463	10,522	6,396	4,126	34.6	33.8	36.0
INSTRUCTOR	9,513	4,546	4,967	859	423	436	9.0	9.3	8.8
LECTURER	2,457	1,297	1,160	470	250	220	19.1	19.3	19.0
NO ACADEMIC RANK . . .	717	452	265	139	103	36	19.4	22.8	13.6
RIVATE									
ALL RANKS COMBINED . . .	63,410	45,609	17,801	34,070	27,285	6,785	53.7	59.8	38.1
PROFESSOR.	18,027	15,721	2,306	16,560	14,478	2,082	91.9	92.1	90.3
ASSOCIATE PROFESSOR. .	17,960	13,761	4,199	13,140	10,112	3,028	73.2	73.5	72.1
ASSISTANT PROFESSOR. .	19,650	12,154	7,496	3,692	2,249	1,443	18.8	18.5	19.3
INSTRUCTOR	6,157	2,982	3,175	197	106	91	3.2	3.6	2.9
LECTURER	449	238	211	4	2	2	0.9	0.8	0.9
NO ACADEMIC RANK . . .	1,167	753	414	477	338	139	40.9	44.9	33.6

TABLE 8.3--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY CONTROL OF INSTITUTIONAL UNIT AND BY SEX AND ACADEMIC RANK OF FACULTY MEMBER: 50 STATES AND DISTRICT OF COLUMBIA, 1982-83

2-YEAR INSTITUTIONAL UNITS

CONTROL OF INSTITUTIONAL UNIT AND ACADEMIC RANK (1)	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
PUBLIC AND PRIVATE									
ALL RANKS COMBINED . . .	66,784	42,587	24,197	50,090	33,587	16,503	75.0	78.9	68.2
PROFESSOR.	6,406	4,863	1,543	6,102	4,653	1,449	95.3	95.7	93.9
ASSOCIATE PROFESSOR. .	9,153	6,146	3,007	8,135	5,499	2,636	88.9	89.5	87.7
ASSISTANT PROFESSOR. .	9,544	5,544	4,000	5,569	3,328	2,241	58.4	60.0	56.0
INSTRUCTOR	5,512	2,698	2,814	1,097	589	508	19.9	21.8	18.1
LECTURER	341	145	196	110	47	63	32.3	32.4	32.1
NO ACADEMIC RANK . . .	35,828	23,191	12,637	29,077	19,471	9,606	81.2	84.0	76.0
PUBLIC									
ALL RANKS COMBINED . . .	65,061	41,617	23,444	49,231	33,046	16,185	75.7	79.4	69.0
PROFESSOR.	6,231	4,748	1,483	5,964	4,559	1,405	95.7	96.0	94.7
ASSOCIATE PROFESSOR. .	8,947	6,007	2,940	7,976	5,392	2,584	89.1	89.8	87.9
ASSISTANT PROFESSOR. .	9,269	5,418	3,851	5,471	3,288	2,183	59.0	60.7	56.7
INSTRUCTOR	5,190	2,559	2,631	1,053	569	484	20.3	22.2	18.4
LECTURER	337	143	194	110	47	63	32.6	32.9	32.5
NO ACADEMIC RANK . . .	35,087	22,742	12,345	28,657	19,191	9,466	81.7	84.4	76.7
PRIVATE									
ALL RANKS COMBINED . . .	1,723	970	753	859	541	318	49.9	55.8	42.2
PROFESSOR.	175	115	60	138	94	44	78.9	81.7	73.3
ASSOCIATE PROFESSOR. .	206	139	67	159	107	52	77.2	77.0	77.6
ASSISTANT PROFESSOR. .	275	126	149	98	40	58	35.6	31.7	38.9
INSTRUCTOR	322	139	183	44	20	24	13.7	14.4	13.1
LECTURER	4	2	2	0	0	0	0.0	0.0	0.0
NO ACADEMIC RANK . . .	741	449	292	420	280	140	56.7	62.4	47.9

LE 6.--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0 STATES AND D.C	402,413	293,931	108,482	240,186	191,288	48,898	59.7	65.1	45.1
NEW ENGLAND	28,538	21,023	7,515	16,807	13,605	3,202	58.9	64.7	42.6
CONNECTICUT	5,617	4,219	1,398	3,843	3,106	737	68.4	73.6	52.7
MAINE	1,885	1,416	469	967	827	140	51.3	58.4	29.9
MASSACHUSETTS	15,167	11,061	4,106	8,589	6,906	1,683	56.6	62.4	41.0
NEW HAMPSHIRE	1,968	1,458	510	1,027	862	165	52.2	59.1	32.4
RHODE ISLAND	2,482	1,816	666	1,614	1,260	354	65.0	69.4	53.2
VERMONT	1,419	1,053	366	767	644	123	54.1	61.2	33.6
MIDEAST	77,870	56,216	21,654	48,879	38,384	10,495	62.8	68.3	48.5
DELAWARE	1,267	870	397	606	506	100	47.8	58.2	25.2
DISTRICT OF COLUMBIA	3,664	2,513	1,151	1,720	1,358	362	46.9	54.0	31.5
MARYLAND	6,848	4,602	2,246	4,060	3,058	1,002	59.3	66.4	44.6
NEW JERSEY	9,308	6,640	2,668	6,432	4,895	1,537	69.1	73.7	57.6
NEW YORK	36,142	26,007	10,135	22,533	17,566	4,967	62.3	67.5	49.0
PENNSYLVANIA	20,641	15,584	5,057	13,528	11,001	2,527	65.5	70.6	50.0
GREAT LAKES	69,355	51,694	17,661	43,105	34,984	8,121	62.2	67.7	46.0
ILLINOIS	20,293	14,882	5,411	13,788	10,735	3,053	67.9	72.1	56.4
INDIANA	9,208	6,914	2,294	5,402	4,487	915	58.7	64.9	39.9
MICHIGAN	14,186	10,743	3,443	9,400	7,675	1,725	66.3	71.4	50.1
OHIO	15,699	11,715	3,984	9,539	7,852	1,687	60.8	67.0	42.3
WISCONSIN	9,969	7,440	2,529	4,976	4,235	741	49.9	56.9	29.3
PLAINS	33,382	24,900	8,482	18,043	14,977	3,066	54.1	60.1	36.2
IOWA	6,337	4,737	1,600	3,173	2,642	531	50.1	55.8	33.2
KANSAS	5,287	3,906	1,381	2,993	2,453	540	56.6	62.8	39.1
MINNESOTA	7,200	5,453	1,747	4,174	3,465	709	58.0	63.5	40.6
MISSOURI	7,915	5,827	2,088	4,316	3,562	754	54.5	61.1	36.1
NEBRASKA	3,583	2,677	906	1,885	1,577	308	52.6	58.9	34.0
NORTH DAKOTA	1,598	1,231	367	769	655	114	48.1	53.2	31.1
SOUTH DAKOTA	1,442	1,069	373	733	623	110	50.8	58.3	29.5
SOUTHEAST	87,294	60,913	26,381	45,132	35,115	10,017	51.7	57.6	38.0
ALABAMA	6,708	4,463	2,245	3,758	2,677	1,081	56.0	60.0	48.2
ARKANSAS	3,253	2,353	900	1,739	1,395	344	53.5	59.3	38.2
FLORIDA	12,704	9,138	3,566	7,784	5,911	1,873	61.3	64.7	52.5
GEORGIA	8,242	5,727	2,515	4,540	3,554	986	55.1	62.1	39.2

KENTUCKY	5,749	4,093	1,656	3,438	2,708	730	59.8	66.2	44.1
LOUISIANA	6,919	4,777	2,142	3,806	2,919	887	55.0	61.1	41.4
MISSISSIPPI	4,992	3,167	1,825	1,568	1,227	341	31.4	38.7	18.7
NORTH CAROLINA	12,119	8,248	3,871	4,904	3,854	1,050	40.5	46.7	27.1
SOUTH CAROLINA	5,669	3,940	1,729	2,411	1,970	441	42.5	50.0	25.5
TENNESSEE	7,663	5,486	2,177	4,434	3,498	936	57.9	63.8	43.0
VIRGINIA	10,302	7,403	2,899	4,970	4,030	940	48.2	54.4	32.4
WEST VIRGINIA	2,974	2,118	856	1,780	1,372	408	59.9	64.8	47.7
SOUTHWEST	36,700	26,703	9,997	19,185	15,359	3,826	52.3	57.5	38.3
ARIZONA	4,907	3,717	1,190	2,865	2,358	507	58.4	63.4	42.6
NEW MEXICO	2,216	1,727	489	1,231	1,046	185	55.6	60.6	37.8
OKLAHOMA	5,558	3,994	1,564	2,661	2,132	529	47.9	53.4	33.8
TEXAS	24,019	17,265	6,754	12,428	9,823	2,605	51.7	56.9	38.6
ROCKY MOUNTAINS	13,588	10,725	2,863	8,054	6,871	1,183	59.3	64.1	41.3
COLORADO	5,829	4,572	1,257	3,435	2,907	528	58.9	63.6	42.0
IDAHO	1,593	1,258	335	782	655	127	49.1	52.1	37.9
MONTANA	1,503	1,199	304	943	815	128	62.7	68.0	42.1
UTAH	3,558	2,852	706	2,215	1,946	269	62.3	68.2	38.1
WYOMING	1,105	844	261	679	548	131	61.4	64.9	50.2
FAR WEST	54,932	41,046	13,886	40,445	31,476	8,969	73.6	76.7	64.6
ALASKA	618	433	185	118	98	20	19.1	22.6	10.8
CALIFORNIA	39,880	29,739	10,141	30,231	23,308	6,923	75.8	78.4	68.3
HAWAII	1,741	1,279	462	1,152	910	242	66.2	71.1	52.4
NEVADA	843	628	215	558	441	117	66.2	70.2	54.4
OREGON	4,962	3,694	1,268	3,285	2,617	668	66.2	70.8	52.7
WASHINGTON	6,888	5,273	1,615	5,101	4,102	999	74.1	77.8	61.9
U.S. SERVICE SCHOOLS	774	711	63	536	517	19	69.3	72.7	30.2
UTLYING AREAS	5,386	2,793	2,593	2,480	1,322	1,158	46.0	47.3	44.7
AMERICAN SAMOA	46	28	18	29	17	12	63.0	60.7	66.7
GUAM	206	133	73	26	18	8	12.6	13.5	11.0
NO. MARIANAS	-	-	-	-	-	-	-	-	-
PUERTO RICO	5,039	2,571	2,468	2,403	1,275	1,128	47.7	49.6	45.7
TRUST TERR., PAC. ISLAND	24	18	6	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS	71	43	28	22	12	10	31.0	27.9	35.7

BLE 8.1--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL PUBLIC INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0 STATES AND D.C.	290,873	212,045	78,828	184,924	145,705	39,219	63.6	68.7	49.8
NEW ENGLAND.	12,808	9,314	3,494	9,033	7,095	1,938	70.5	76.2	55.5
CONNECTICUT.	3,001	2,244	757	2,337	1,827	510	77.9	81.4	67.4
MAINE.	1,261	975	286	731	623	108	58.0	63.9	37.8
MASSACHUSETTS.	5,374	3,788	1,586	3,803	2,932	871	70.8	77.4	54.9
NEW HAMPSHIRE.	1,063	797	266	641	538	103	60.3	67.5	38.7
RHODE ISLAND	1,353	937	416	1,051	782	269	77.7	83.5	64.7
VERMONT.	756	573	183	470	393	77	62.2	68.6	42.1
MIDEAST.	44,786	31,920	12,866	31,052	23,729	7,323	69.3	74.3	56.9
DELAWARE	1,181	829	352	582	489	93	49.3	59.0	26.4
DISTRICT OF COLUMBIA . . .	647	396	251	0	0	0	0.0	0.0	0.0
MARYLAND	5,333	3,526	1,807	3,406	2,516	890	63.9	71.4	49.3
NEW JERSEY	6,667	4,636	2,031	4,819	3,552	1,267	72.3	76.6	62.4
NEW YORK	19,645	14,060	5,585	13,938	10,596	3,342	70.9	75.4	59.8
PENNSYLVANIA	11,313	8,473	2,840	8,307	6,576	1,731	73.4	77.6	61.0
GREAT LAKES.	51,474	38,397	13,077	33,691	27,089	6,602	65.5	70.5	50.5
ILLINOIS	13,857	10,066	3,791	10,261	7,816	2,445	74.0	77.6	64.5
INDIANA.	6,494	4,822	1,672	3,912	3,206	706	60.2	66.5	42.2
MICHIGAN	11,832	9,056	2,776	8,279	6,728	1,551	70.0	74.3	55.9
OHIO	10,958	8,219	2,739	7,046	5,758	1,288	64.3	70.1	47.0
WISCONSIN.	8,333	6,234	2,099	4,193	3,581	612	50.3	57.4	29.2
PLAINS	24,368	18,416	5,952	13,878	11,555	2,323	57.0	62.7	39.0
IOWA	4,342	3,250	1,092	2,207	1,820	387	50.8	56.0	35.4
KANSAS	4,507	3,354	1,153	2,765	2,268	497	61.3	67.6	43.1
MINNESOTA.	4,980	3,824	1,156	3,074	2,557	517	61.7	66.9	44.7
MISSOURI	5,265	3,943	1,322	2,998	2,502	496	56.9	63.5	37.5
NEBRASKA	2,743	2,078	665	1,480	1,245	235	54.0	59.9	35.3
NORTH DAKOTA	1,462	1,147	315	758	648	110	51.8	56.5	34.9
SOUTH DAKOTA	1,069	820	249	596	515	81	55.8	62.8	32.5
SOUTHEAST.	69,289	48,367	20,922	37,657	29,243	8,414	54.3	60.5	40.2
ALABAMA.	5,612	3,772	1,840	3,444	2,453	991	61.4	65.0	53.9
ARKANSAS	2,711	1,957	754	1,546	1,248	298	57.0	63.8	39.5
FLORIDA.	10,176	7,191	2,985	6,907	5,165	1,742	67.9	71.8	58.4
GEORGIA.	6,235	4,407	1,828	3,742	2,964	778	60.0	67.3	42.6

KENTUCKY	4,561	3,289	1,272	2,893	2,287	606	63.4	69.5	47.6
LOUISIANA.	5,823	3,991	1,832	3,334	2,539	795	57.3	63.6	43.4
MISSISSIPPI.	4,500	2,863	1,637	1,464	1,154	310	32.5	40.3	18.9
NORTH CAROLINA	9,404	6,380	3,024	3,614	2,850	764	38.4	44.7	25.3
SOUTH CAROLINA	4,368	3,033	1,335	1,842	1,525	317	42.2	50.3	23.7
TENNESSEE.	5,095	3,651	1,444	3,312	2,568	744	65.0	70.3	51.5
VIRGINIA	8,310	6,032	2,278	3,996	3,283	713	48.1	54.4	31.3
WEST VIRGINIA.	2,494	1,801	693	1,563	1,207	356	62.7	67.0	51.4
SOUTHWEST.	31,169	22,704	8,465	16,571	13,280	3,291	53.2	58.5	38.9
ARIZONA.	4,710	3,587	1,123	2,807	2,319	488	59.6	64.7	43.5
NEW MEXICO	2,089	1,659	430	1,172	1,011	161	56.1	60.9	37.4
OKLAHOMA	4,553	3,288	1,265	2,350	1,878	472	51.6	57.1	37.3
TEXAS.	19,817	14,170	5,647	10,242	8,072	2,170	51.7	57.0	38.4
ROCKY MOUNTAINS.	10,937	8,644	2,293	6,810	5,791	1,019	62.3	67.0	44.4
COLORADO	4,947	3,933	1,014	2,975	2,528	447	60.1	64.3	44.1
IDAHO.	1,243	967	276	753	633	120	60.6	65.5	43.5
MONTANA.	1,351	1,086	265	872	754	118	64.5	69.4	44.5
UTAH	2,291	1,814	477	1,531	1,328	203	66.8	73.2	42.6
WYOMING.	1,105	844	261	679	548	131	61.4	64.9	50.2
FAR WEST	45,268	33,572	11,696	35,696	27,406	8,290	78.9	81.6	70.9
ALASKA	592	415	177	118	98	20	19.9	23.6	11.3
CALIFORNIA	32,442	23,947	8,495	26,586	20,153	6,433	81.9	84.2	75.7
HAWAII	1,644	1,211	433	1,121	886	235	68.2	73.2	54.3
NEVADA	837	623	214	558	441	117	66.7	70.8	54.7
OREGON	4,051	2,972	1,079	2,842	2,235	607	70.2	75.2	56.3
WASHINGTON	5,702	4,404	1,298	4,471	3,593	878	78.4	81.6	67.6
U.S. SERVICE SCHOOLS	774	711	63	536	517	19	69.3	72.7	30.2
OUTLYING AREAS	3,544	1,944	1,600	2,058	1,126	932	58.1	57.9	58.3
AMERICAN SAMOA.	46	28	18	29	17	12	63.0	60.7	66.7
GUAM.	206	133	73	26	18	8	12.6	13.5	11.0
NO. MARIANAS.	-	-	-	-	-	-	-	-	-
PUERTO RICO	3,197	1,722	1,475	1,981	1,079	902	62.0	62.7	61.2
TRUST TERR., PAC. ISLAND. .	24	18	6	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS.	71	43	28	22	12	10	31.0	27.9	35.7

BLE 6.2--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL PRIVATE INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
50 STATES AND D.C.	111,540	81,886	29,654	55,262	45,583	9,679	49.5	55.7	32.6
NEW ENGLAND.	15,730	11,709	4,021	7,774	6,510	1,264	49.4	55.6	31.4
CONNECTICUT.	2,616	1,975	641	1,506	1,279	227	57.6	64.8	35.4
MAINE.	624	441	183	236	204	32	37.8	46.3	17.5
MASSACHUSETTS.	9,793	7,273	2,520	4,786	3,974	812	48.9	54.6	32.2
NEW HAMPSHIRE.	905	661	244	386	324	62	42.7	49.0	25.4
RHODE ISLAND	1,129	879	250	563	478	85	49.9	54.4	34.0
VERMONT.	663	480	183	297	251	46	44.8	52.3	25.1
MIDEAST.	33,084	24,296	8,788	17,827	14,655	3,172	53.9	60.3	36.1
DELAWARE	86	41	45	24	17	7	27.9	41.5	15.6
DISTRICT OF COLUMBIA . . .	3,017	2,117	900	1,720	1,358	362	57.0	64.1	40.2
MARYLAND	1,515	1,076	439	654	542	112	43.2	50.4	25.5
NEW JERSEY	2,641	2,004	637	1,613	1,343	270	61.1	67.0	42.4
NEW YORK	16,497	11,947	4,550	8,595	6,970	1,625	52.1	58.3	35.7
PENNSYLVANIA	9,328	7,111	2,217	5,221	4,425	796	56.0	62.2	35.9
GREAT LAKES.	17,881	13,297	4,584	9,414	7,895	1,519	52.6	59.4	33.1
ILLINOIS	6,436	4,816	1,620	3,527	2,919	608	54.8	60.6	37.5
INDIANA.	2,714	2,092	622	1,490	1,281	209	54.9	61.2	33.6
MICHIGAN	2,354	1,687	667	1,121	947	174	47.6	56.1	26.1
OHIO	4,741	3,496	1,245	2,493	2,094	399	52.6	59.9	32.0
WISCONSIN.	1,636	1,206	430	783	654	129	47.9	54.2	30.0
PLAINS	8,994	6,484	2,510	4,165	3,422	743	46.3	52.8	29.6
IOWA	1,995	1,487	508	966	822	144	48.4	55.3	28.3
KANSAS	780	552	228	228	185	43	29.2	33.5	18.9
MINNESOTA.	2,220	1,629	591	1,100	908	192	49.5	55.7	32.5
MISSOURI	2,650	1,884	766	1,318	1,060	258	49.7	56.3	33.7
NEBRASKA	840	599	241	405	332	73	48.2	55.4	30.3
NORTH DAKOTA	136	84	52	11	7	4	8.1	8.3	7.7
SOUTH DAKOTA	373	249	124	137	108	29	36.7	43.4	23.4
SOUTHEAST.	18,005	12,546	5,459	7,475	5,872	1,603	41.5	46.8	29.4
ALABAMA.	1,096	691	405	314	224	90	28.6	32.4	22.2
ARKANSAS	542	396	146	193	147	46	35.6	37.1	31.5
FLORIDA.	2,528	1,947	581	877	746	131	34.7	38.3	22.5
GEORGIA.	2,007	1,320	687	798	590	208	39.8	44.7	30.3

KENTUCKY	1,188	804	384	545	421	124	45.9	52.4	32.3
LOUISIANA	1,096	786	310	472	380	92	43.1	48.3	29.7
MISSISSIPPI	492	304	188	104	73	31	21.1	24.0	16.5
NORTH CAROLINA	2,715	1,868	847	1,290	1,004	286	47.5	53.7	33.8
SOUTH CAROLINA	1,301	907	394	569	445	124	43.7	49.1	31.5
TENNESSEE	2,568	1,835	733	1,122	930	192	43.7	50.7	26.2
VIRGINIA	1,992	1,371	621	974	747	227	48.9	54.5	36.6
WEST VIRGINIA	480	317	163	217	165	52	45.2	52.1	31.9
SOUTHWEST	5,531	3,999	1,532	2,614	2,079	535	47.3	52.0	34.9
ARIZONA	197	130	67	58	39	19	29.4	30.0	28.4
NEW MEXICO	127	68	59	59	35	24	46.5	51.5	40.7
OKLAHOMA	1,005	706	299	311	254	57	30.9	36.0	19.1
TEXAS	4,202	3,095	1,107	2,186	1,751	435	52.0	56.6	39.3
ROCKY MOUNTAINS	2,651	2,081	570	1,244	1,080	164	46.9	51.9	28.8
COLORADO	882	639	243	460	379	81	52.2	59.3	33.3
IDAHO	350	291	59	29	22	7	8.3	7.6	11.9
MONTANA	152	113	39	71	61	10	46.7	54.0	25.6
UTAH	1,267	1,038	229	684	618	66	54.0	59.5	28.8
WYOMING	0	0	0	0	0	0	0.0	0.0	0.0
FAR WEST	9,664	7,474	2,190	4,749	4,070	679	49.1	54.5	31.0
ALASKA	26	18	8	0	0	0	0.0	0.0	0.0
CALIFORNIA	7,438	5,792	1,646	3,645	3,155	490	49.0	54.5	29.8
HAWAII	97	68	29	31	24	7	32.0	35.3	24.1
NEVADA	6	5	1	0	0	0	0.0	0.0	0.0
OREGON	911	722	189	443	382	61	48.6	52.9	32.3
WASHINGTON	1,186	869	317	630	509	121	53.1	58.6	38.2
U.S. SERVICE SCHOOLS	0	0	0	0	0	0	0.0	0.0	0.0
OUTLYING AREAS	1,842	849	993	422	196	226	22.9	23.1	22.8
AMERICAN SAMOA	0	0	0	0	0	0	0.0	0.0	0.0
GUAM	0	0	0	0	0	0	0.0	0.0	0.0
NO. MARIANAS	-	-	-	-	-	-	-	-	-
PUERTO RICO	1,842	849	993	422	196	226	22.9	23.1	22.8
TRUST TERR., PAC. ISLAND	0	0	0	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS	0	0	0	0	0	0	0.0	0.0	0.0

TABLE 7.--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
50 STATES AND D.C.	367,352	271,554	95,798	240,186	191,288	48,898	65.4	70.4	51.0
NEW ENGLAND.	26,637	19,703	6,934	16,807	13,605	3,202	63.1	69.1	46.2
CONNECTICUT.	5,575	4,192	1,383	3,843	3,106	737	68.9	74.1	53.3
MAINE.	1,610	1,242	368	967	827	140	60.1	66.6	38.0
MASSACHUSETTS.	14,161	10,347	3,814	8,589	6,906	1,683	60.7	66.7	44.1
NEW HAMPSHIRE.	1,730	1,304	426	1,027	862	165	59.4	66.1	38.7
RHODE ISLAND	2,281	1,647	634	1,614	1,260	354	70.8	76.5	55.8
VERMONT.	1,280	971	309	767	644	123	59.9	66.3	39.8
MIDEAST.	74,057	53,899	20,158	48,879	38,384	10,495	66.0	71.2	52.1
DELAWARE	1,006	738	268	606	506	100	60.2	68.6	37.3
DISTRICT OF COLUMBIA . . .	2,954	2,071	883	1,720	1,358	362	58.2	65.6	41.0
MARYLAND	6,539	4,416	2,123	4,060	3,058	1,002	62.1	69.2	47.2
NEW JERSEY	9,227	6,617	2,610	6,432	4,895	1,537	69.7	74.0	58.9
NEW YORK	34,588	25,036	9,552	22,533	17,566	4,967	65.1	70.2	52.0
PENNSYLVANIA	19,743	15,021	4,722	13,528	11,001	2,527	68.5	73.2	53.5
GREAT LAKES.	62,266	47,172	15,094	43,105	34,984	8,121	69.2	74.2	53.8
ILLINOIS	19,740	14,539	5,201	13,788	10,735	3,053	69.8	73.8	58.7
INDIANA.	8,595	6,527	2,068	5,402	4,487	915	62.9	68.7	44.2
MICHIGAN	12,968	9,958	3,010	9,400	7,675	1,725	72.5	77.1	57.3
OHIO	14,020	10,649	3,371	9,539	7,852	1,687	68.0	73.7	50.0
WISCONSIN.	6,943	5,499	1,444	4,976	4,235	741	71.7	77.0	51.3
PLAINS	28,300	21,510	6,790	18,043	14,977	3,066	63.8	69.6	45.2
IOWA	4,947	3,786	1,161	3,173	2,642	531	64.1	69.8	45.7
KANSAS	4,584	3,442	1,142	2,993	2,453	540	65.3	71.3	47.3
MINNESOTA.	6,205	4,770	1,435	4,174	3,465	709	67.3	72.6	49.4
MISSOURI	7,004	5,247	1,757	4,316	3,562	754	61.6	67.9	42.9
NEBRASKA	2,933	2,225	708	1,885	1,577	308	64.3	70.9	43.5
NORTH DAKOTA	1,328	1,049	279	769	655	114	57.9	62.4	40.9
SOUTH DAKOTA	1,299	991	308	733	623	110	56.4	62.9	35.7
SOUTHEAST.	78,206	55,533	22,673	45,132	35,115	10,017	57.7	63.2	44.2
ALABAMA.	6,424	4,280	2,144	3,758	2,677	1,081	58.5	62.5	50.4
ARKANSAS	2,863	2,107	756	1,739	1,395	344	60.7	66.2	45.5
FLORIDA.	12,076	8,694	3,382	7,784	5,911	1,873	64.5	68.0	55.4

GEORGIA	7,913	5,517	2,396	4,540	3,554	986	57.4	64.4	41.2
KENTUCKY	5,548	3,989	1,559	3,438	2,708	730	62.0	67.9	46.8
LOUISIANA	6,742	4,683	2,059	3,806	2,919	887	56.5	62.3	43.1
MISSISSIPPI	3,252	2,236	1,016	1,568	1,227	341	48.2	54.9	33.6
NORTH CAROLINA	8,980	6,421	2,559	4,904	3,854	1,050	54.6	60.0	41.0
SOUTH CAROLINA	4,266	3,112	1,154	2,411	1,970	441	56.5	63.3	38.2
TENNESSEE	7,280	5,245	2,035	4,434	3,498	936	60.9	66.7	46.0
VIRGINIA	9,934	7,156	2,778	4,970	4,030	940	50.0	56.3	33.8
WEST VIRGINIA	2,928	2,093	835	1,780	1,372	408	60.8	65.6	48.9
SOUTHWEST	31,948	23,647	8,301	19,185	15,359	3,826	60.1	65.0	46.1
ARIZONA	4,132	3,187	945	2,865	2,358	507	69.3	74.0	53.7
NEW MEXICO	2,142	1,676	466	1,231	1,046	185	57.5	62.4	39.7
OKLAHOMA	4,799	3,530	1,269	2,661	2,132	529	55.4	60.4	41.7
TEXAS	20,875	15,254	5,621	12,428	9,823	2,605	59.5	64.4	46.3
ROCKY MOUNTAINS	11,996	9,567	2,429	8,054	6,871	1,183	67.1	71.8	48.7
COLORADO	4,741	3,785	956	3,435	2,907	528	72.5	76.8	55.2
IDAHO	1,249	981	268	782	655	127	62.6	66.8	47.4
MONTANA	1,444	1,166	278	943	815	128	65.3	69.9	46.0
UTAH	3,545	2,848	697	2,215	1,946	269	62.5	68.3	38.6
WYOMING	1,017	787	230	679	548	131	66.8	69.6	57.0
FAR WEST	53,168	39,812	13,356	40,445	31,476	8,969	76.1	79.1	67.2
ALASKA	360	266	94	118	98	20	32.8	36.8	21.3
CALIFORNIA	38,812	28,978	9,834	30,231	23,308	6,923	77.9	80.4	70.4
HAWAII	1,716	1,264	452	1,152	910	242	67.1	72.0	53.5
NEVADA	837	623	214	558	441	117	66.7	70.8	54.7
OREGON	4,713	3,511	1,202	3,285	2,617	668	69.7	74.5	55.6
WASHINGTON	6,730	5,170	1,560	5,101	4,102	999	75.8	79.3	64.0
U.S. SERVICE SCHOOLS	774	711	63	536	517	19	69.3	72.7	30.2
OUTLYING AREAS	4,649	2,432	2,217	2,480	1,322	1,158	53.3	54.4	52.2
AMERICAN SAMOA	46	28	18	29	17	12	63.0	60.7	66.7
GUAM	158	102	56	26	18	8	16.5	17.6	14.3
NO. MARIANAS	-	-	-	-	-	-	-	-	-
PUERTO RICO	4,374	2,259	2,115	2,403	1,275	1,128	54.9	56.4	53.3
TRUST TERR., PAC. ISLAND	0	0	0	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS	71	43	28	22	12	10	31.0	27.9	35.7

TABLE 7.1--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL PUBLIC INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
(1)	MEN AND WOMEN (2)	MEN (3)	WOMEN (4)	MEN AND WOMEN (5)	MEN (6)	WOMEN (7)	MEN AND WOMEN (8)	MEN (9)	WOMEN (10)
50 STATES AND D.C.	268,501	198,080	70,421	184,924	145,705	39,219	68.9	73.6	55.7
NEW ENGLAND.	12,544	9,129	3,415	9,033	7,095	1,938	72.0	77.7	56.7
CONNECTICUT.	2,967	2,222	745	2,337	1,827	510	78.8	82.2	68.5
MAINE.	1,120	867	253	731	623	108	65.3	71.9	42.7
MASSACHUSETTS.	5,374	3,788	1,586	3,803	2,932	871	70.8	77.4	54.9
NEW HAMPSHIRE.	974	742	232	641	538	103	65.8	72.5	44.4
RHODE ISLAND	1,353	937	416	1,051	782	269	77.7	83.5	64.7
VERMONT.	756	573	183	470	393	77	62.2	68.6	42.1
MIDEAST.	43,619	31,241	12,378	31,052	23,729	7,323	71.2	76.0	59.2
DELAWARE	957	712	245	582	489	93	60.8	68.7	38.0
DISTRICT OF COLUMBIA . . .	0	0	0	0	0	0	0.0	0.0	0.0
MARYLAND	5,256	3,489	1,767	3,406	2,516	890	64.8	72.1	50.4
NEW JERSEY	6,667	4,636	2,031	4,819	3,552	1,267	72.3	76.6	62.4
NEW YORK	19,576	14,017	5,559	13,938	10,596	3,342	71.2	75.6	60.1
PENNSYLVANIA	11,163	8,387	2,776	8,307	6,576	1,731	74.4	78.4	62.4
GREAT LAKES.	46,238	35,065	11,173	33,691	27,089	6,602	72.9	77.3	59.1
ILLINOIS	13,733	9,992	3,741	10,261	7,816	2,445	74.7	78.2	65.4
INDIANA.	6,094	4,592	1,502	3,912	3,206	706	64.2	69.8	47.0
MICHIGAN	10,972	8,492	2,480	8,279	6,728	1,551	75.5	79.2	62.5
OHIO	9,862	7,506	2,356	7,046	5,758	1,288	71.4	76.7	54.7
WISCONSIN.	5,577	4,483	1,094	4,193	3,581	612	75.2	79.9	55.9
PLAINS	20,426	15,812	4,614	13,878	11,555	2,323	67.9	73.1	50.3
IOWA	3,134	2,427	707	2,207	1,820	387	70.4	75.0	54.7
KANSAS	3,951	3,004	947	2,765	2,268	497	70.0	75.5	52.5
MINNESOTA.	4,203	3,306	897	3,074	2,557	517	73.1	77.3	57.6
MISSOURI	4,625	3,549	1,076	2,998	2,502	496	64.8	70.5	46.1
NEBRASKA	2,152	1,675	477	1,480	1,245	235	68.8	74.3	49.3
NORTH DAKOTA	1,317	1,042	275	758	648	110	57.6	62.2	40.0
SOUTH DAKOTA	1,044	809	235	596	515	81	57.1	63.7	34.5
SOUTHEAST.	63,290	44,983	18,307	37,657	29,243	8,414	59.5	65.0	46.0
ALABAMA.	5,612	3,772	1,840	3,444	2,453	991	61.4	65.0	53.9
ARKANSAS	2,500	1,841	659	1,546	1,248	298	61.8	67.8	45.2
FLORIDA.	10,176	7,191	2,985	6,907	5,165	1,742	67.9	71.8	58.4

GEORGIA.	6,235	4,407	1,828	3 742	2,964	778	60.0	67.3	42.6
KE· ·CKY	4,561	3,289	1,272	33	2,287	606	63.4	69.5	47.6
LOUISIANA.	5,823	3,991	1,832	3,334	2,539	795	57.3	63.6	43.4
MISSISSIPPI.	2,960	2,057	903	1,464	1,154	310	49.5	56.1	34.3
NORTH CAROLINA	6,475	4,677	1,798	3,614	2,850	764	55.8	60.9	42.5
SOUTH CAROLINA	3,206	2,368	838	1,842	1,525	317	57.5	64.4	37.8
TENNESSEE.	5,095	3,651	1,444	3,312	2,568	744	65.0	70.3	51.5
VIRGINIA	8,153	5,938	2,215	3,996	3,283	713	49.0	55.3	32.2
WEST VIRGINIA.	2,494	1,801	693	1,563	1,207	356	62.7	67.0	51.4
SOUTHWEST.	27,050	20,078	6,972	16,571	13,280	3,291	61.3	66.1	47.2
ARIZONA.	4,030	3,118	912	2,807	2,319	488	69.7	74.4	53.5
NEW MEXICO	2,025	1,617	408	1,172	1,011	161	57.9	62.5	39.5
OKLAHOMA	4,135	3,048	1,087	2,350	1,878	472	56.8	61.6	43.4
TEXAS.	16,860	12,295	4,565	10,242	8,072	2,170	60.7	65.7	47.5
ROCKY MOUNTAINS.	9,778	7,815	1,963	6,810	5,791	1,019	69.6	74.1	51.9
COLORADO	3,997	3,242	755	2,975	2,528	447	74.4	78.0	59.2
IDAHO.	1,145	898	247	753	633	120	65.8	70.5	48.6
MONTANA.	1,328	1,074	254	872	754	118	65.7	70.2	46.5
UTAH	2,291	1,814	477	1,531	1,328	203	66.8	73.2	42.6
WYOMING.	1,017	787	230	679	548	131	66.8	69.6	57.0
FAR WEST	44,782	33,246	11,536	35,696	27,406	8,290	79.7	82.4	71.9
ALASKA	360	266	94	118	98	20	32.8	36.8	21.3
CALIFORNIA	32,421	23,927	8,494	26,586	20,153	6,433	82.0	84.2	75.7
HAWAII	1,644	1,211	433	1,121	886	235	68.2	73.2	54.3
NEVADA	837	623	214	558	441	117	66.7	70.8	54.7
OREGON	3,930	2,891	1,039	2,842	2,235	607	72.3	77.3	58.4
WASHINGTON	5,590	4,328	1,262	4,471	3,593	878	80.0	83.0	69.6
U.S. SERVICE SCHOOLS	774	711	63	536	517	19	69.3	72.7	30.2
OUTLYING AREAS	3,472	1,895	1,577	2,058	1,126	932	59.3	59.4	59.1
AMERICAN SAMOA.	46	28	18	29	17	12	63.0	60.7	66.7
GUAM.	158	102	56	26	18	8	16.5	17.6	14.3
NO. MARIANAS.	-	-	-	-	-	-	-	-	-
PUERTO RICO	3,197	1,722	1,475	1,981	1,079	902	62.0	62.7	61.2
TRUST TERR., PAC. ISLAND. .	0	0	0	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS.	71	43	28	22	12	10	31.0	27.9	35.7

TABLE 7.2--NUMBER OF FULL-TIME INSTRUCTIONAL FACULTY, NUMBER TENURED, AND PERCENT TENURED ON 9- AND 12-MONTH CONTRACTS IN INSTITUTIONAL UNITS OF HIGHER EDUCATION REPORTING TENURE STATUS, BY SEX OF FACULTY MEMBER AND BY REGION, STATE OR OTHER AREA: 1982-83

ALL PRIVATE INSTITUTIONAL UNITS

REGION, STATE OR OTHER AREA	TOTAL FACULTY			TENURED FACULTY			PERCENT FACULTY WITH TENURE		
	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN	MEN AND WOMEN	MEN	WOMEN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
50 STATES AND D.C.	98,851	73,474	25,377	55,262	45,583	9,679	55.9	62.0	38.1
NEW ENGLAND.	14,093	10,574	3,519	7,774	6,510	1,264	55.2	61.6	35.9
CONNECTICUT.	2,608	1,970	638	1,506	1,279	227	57.7	64.9	35.6
MAINE.	490	375	115	236	204	32	48.2	54.4	27.8
MASSACHUSETTS.	8,787	6,559	2,228	4,786	3,974	812	54.5	60.6	36.4
NEW HAMPSHIRE.	756	562	194	386	324	62	51.1	57.7	32.0
RHODE ISLAND	928	710	218	563	478	85	60.7	67.3	39.0
VERMONT.	524	398	126	297	251	46	56.7	63.1	36.5
MIDEAST.	30,438	22,658	7,780	17,827	14,655	3,172	58.6	64.7	40.8
DELAWARE	49	26	23	24	17	7	49.0	65.4	30.4
DISTRICT OF COLUMBIA . . .	2,954	2,071	883	1,720	1,358	362	58.2	65.6	41.0
MARYLAND	1,283	927	356	654	542	112	51.0	58.5	31.5
NEW JERSEY	2,560	1,981	579	1,613	1,343	270	63.0	67.8	46.6
NEW YORK	15,012	11,019	3,993	8,595	6,970	1,625	57.3	63.3	40.7
PENNSYLVANIA	8,580	6,634	1,946	5,221	4,425	796	60.9	66.7	40.9
GREAT LAKES.	16,028	12,107	3,921	9,414	7,895	1,519	58.7	65.2	38.7
ILLINOIS	6,007	4,547	1,460	3,527	2,919	608	58.7	64.2	41.6
INDIANA.	2,501	1,935	566	1,490	1,281	209	59.6	66.2	36.9
MICHIGAN	1,996	1,466	530	1,121	947	174	56.2	64.6	32.8
OHIO	4,158	3,143	1,015	2,493	2,094	399	60.0	66.6	39.3
WISCONSIN.	1,366	1,016	350	783	654	129	57.3	64.4	36.9
PLAINS	7,874	5,698	2,176	4,165	3,422	743	52.9	60.1	34.1
IOWA	1,813	1,359	454	966	822	144	53.3	60.5	31.7
KANSAS	633	438	195	228	185	43	36.0	42.2	22.1
MINNESOTA.	2,002	1,464	538	1,100	908	192	54.9	62.0	35.7
MISSOURI	2,379	1,698	681	1,318	1,060	258	55.4	62.4	37.9
NEBRASKA	781	550	231	405	332	73	51.9	60.4	31.6
NORTH DAKOTA	11	7	4	11	7	4	100.0	100.0	100.0
SOUTH DAKOTA	255	182	73	137	108	29	53.7	59.3	39.7
SOUTHEAST.	14,916	10,550	4,366	7,475	5,872	1,603	50.1	55.7	36.7
ALABAMA.	812	508	304	314	224	90	38.7	44.1	29.6
ARKANSAS	363	266	97	193	147	46	53.2	55.3	47.4
FLORIDA.	1,900	1,503	397	877	746	131	46.2	49.6	33.0

GEORGIA	1,678	1,110	568	798	590	208	47.6	53.2	36.6
KENTUCKY	987	700	287	545	421	124	55.2	60.1	43.2
LOUISIANA	919	692	227	472	380	92	51.4	54.9	40.5
MISSISSIPPI	292	179	113	104	73	31	35.6	40.8	27.4
NORTH CAROLINA	2,505	1,744	761	1,290	1,004	286	51.5	57.6	37.6
SOUTH CAROLINA	1,060	744	316	569	445	124	53.7	59.8	39.2
TENNESSEE	2,185	1,594	591	1,122	930	192	51.4	58.3	32.5
VIRGINIA	1,781	1,218	563	974	747	227	54.7	61.3	40.3
WEST VIRGINIA	434	292	142	217	165	52	50.0	56.5	36.6
SOUTHWEST	4,898	3,569	1,329	2,614	2,079	535	53.4	58.3	40.3
ARIZONA	102	69	33	58	39	19	56.9	56.5	57.6
NEW MEXICO	117	59	58	59	35	24	50.4	59.3	41.4
OKLAHOMA	664	482	182	311	254	57	46.8	52.7	31.3
TEXAS	4,015	2,959	1,056	2,186	1,751	435	54.4	59.2	41.2
ROCKY MOUNTAINS	2,218	1,752	466	1,244	1,080	164	56.1	61.6	35.2
COLORADO	744	543	201	460	379	81	61.8	69.8	40.3
IDAHO	104	83	21	29	22	7	27.9	26.5	33.3
MONTANA	116	92	24	71	61	10	61.2	66.3	41.7
UTAH	1,254	1,034	220	684	618	66	54.5	59.8	30.0
WYOMING	0	0	0	0	0	0	0.0	0.0	0.0
FAR WEST	8,386	6,566	1,820	4,749	4,070	679	56.6	62.0	37.3
ALASKA	0	0	0	0	0	0	0.0	0.0	0.0
CALIFORNIA	6,391	5,051	1,340	3,645	3,155	490	57.0	62.5	36.6
HAWAII	72	53	19	31	24	7	43.1	45.3	36.8
NEVADA	0	0	0	0	0	0	0.0	0.0	0.0
OREGON	783	620	163	443	382	61	56.6	61.6	37.4
WASHINGTON	1,140	842	298	630	509	121	55.3	60.5	40.6
U.S. SERVICE SCHOOLS	0	0	0	0	0	0	0.0	0.0	0.0
OUTLYING AREAS	1,177	537	640	422	196	226	35.9	36.5	35.3
AMERICAN SAMOA	0	0	0	0	0	0	0.0	0.0	0.0
GUAM	0	0	0	0	0	0	0.0	0.0	0.0
NO. MARIANAS	-	-	-	-	-	-	-	-	-
PUERTO RICO	1,177	537	640	422	196	226	35.9	36.5	35.3
TRUST TERR., PAC. ISLAND	0	0	0	0	0	0	0.0	0.0	0.0
VIRGIN ISLANDS	0	0	0	0	0	0	0.0	0.0	0.0

Appendix B

Legal Consequences of Proposed Changes in Tenure Policies

Report

to

The State of Florida
Postsecondary Education
Planning Commission

on

Legal Consequences of Proposed Changes in Tenure Policies for Community College System Teaching Staff

by

Morton H. Sklar

Public Policy Studies Clinic
Florida State University School of Law

December 5, 1985

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Introduction and Background

A number of issues and questions regarding the tenure status and rights of teaching staff at state universities and community colleges have been raised at recent meetings of the Florida State Board of Education, the State Board of Community Colleges, and the Faculty Recruitment and Personnel Policies Committee of the Postsecondary Education Planning Commission. They relate to specific proposals that have been made to modify tenure policies in the community college system, including those that would either:

- authorize the use of the K-12 professional contract approach in place of the current continuing contract system;
- permit a return to annual contracts for continuing contract staff, in circumstances where school administrators anticipate changes in enrollments and/or teaching needs; or
- give school administrators wider discretion to decide which teachers are laid off when a reduction in force becomes necessary; or
- otherwise alter or reduce the nature and extent of existing tenure protections.

The Public Policy Studies Clinic of Florida State University Law School was asked to contribute to the consideration of these proposals by evaluating the legal status of tenure in the State's university and community college systems, and how it would be affected by the proposed changes. Given the fact that the primary focus for proposed policy changes is the community college system, emphasis was to be placed on that area.

Several specific questions were identified as a framework for the evaluation, including those posed by Governor Graham at a State Board of Education meeting on June 18, 1985.

1. What is the legal status of state university and community college level teachers with respect to tenure, job security and termination rights under existing state standards?

2. What would be the legal result of the proposed changes? If state laws and administrative rules are altered or eliminated, would adequate protections remain to assure job security and academic freedom?

3. Is it legally possible under the current policies for school administrators to limit the proportion of tenured faculty, and otherwise to exercise sufficient flexibility to meet school and educational needs?

This report seeks to answer these questions, and to make a substantive contribution to the policymaking process on the tenure issue that is now taking place, in three ways:

- Part I -- An overview of general considerations, needs and issues that emerge as an essential framework for the legal analysis.

- Part II -- Responses to the specific legal questions that were posed.

- Part III -- A summary of recommendations for the treatment of pending tenure policy issues from a legal perspective.

Part I -- Overview of General Considerations, Needs and Issues

1. The nature and extent of public policy needs that must be considered -- taking a more comprehensive approach

At the Board of Education meeting of June 18, 1985, one very small proposal (though it was significant in potential impact) was under consideration. It consisted of a recommendation from the State Board of Community Colleges to alter existing tenure policy for their system by authorizing school administrators to return continuing contract (tenured) personnel to annual (non-tenured) contract in circumstances where future course and faculty changes appear necessary because of changing student and educational needs (Rule Number 6A-14.418). The same rule change would have given administrators additional discretion in deciding which teachers to lay off during reductions in force. Governor Graham and the other Board members reserved judgment on these proposed changes because of a "need to have more facts on just what the situation is," and out of a concern that other aspects of the tenure question that were not covered by the specific proposals before the Board also needed to be considered.

Our analysis of the legal aspects of tenure, and of the proposals for change under consideration, confirm that Governor Graham and the other Board members were correct in their judgment that the tenure issues should be dealt with by taking a more comprehensive approach, rather than on a piecemeal basis. The breadth of concerns and issues that were raised as the analysis proceeded made it clear that a broader and more informed look at tenure needs and issues as a whole was essential before appropriate decisions can be made on any one aspect of the problem.

The legal issues alone are complex, and become even more so when the full range of practical and political questions are added to the debate. Many competing interests must be factored into effective decisionmaking on tenure that necessarily affect the outcome of a legal analysis.

For example, the longstanding policy in Florida of not imposing a mandatory retirement age on postsecondary teachers plays a major role, along with tenure, on the question of how adequate flexibility in staffing and in curricula can be obtained. Similarly, the question frequently arises in the tenure context of how to maintain an effective balance between the need for maintaining local discretion, and that of promoting greater uniformity and consistency through the use of state standards. An appropriate treatment of these concerns and elements requires a more comprehensive review of tenure needs and policies than accompanied the specific rule change under review at the June 18 Board meeting.

2. The adequacy of available information on the impacts of proposed changes -- considerably more data is needed

One overwhelming conclusion that emerged from our efforts to analyze the legal implications of proposed tenure policy changes was that the state's decisionmaking bodies, notably the Board of Education, presently do not have available to them the full range of facts that are needed for logical and informed judgments.

There are three specific areas where these information gaps are most obvious, and most detrimental to effective policymaking. One is the question of what existing policies and procedures regarding tenure exist in the state community college system. The answer to this question is essential before a determination can be made on the legal impact of any proposed change, or on the adequacy of academic freedom and job security protections if portions of existing standards were eliminated. But a complete and adequate answer cannot be given with only the facts that are currently available.

For example, we know that legal rights associated with tenure (see Part II), derive from four sources:

- the federal and state constitutions;
- state statutes and administrative rules;
- contractual provisions based on verbal or written agreements; and
- such customary procedures and rules that individual educational institutions may adopt and follow.

While the first two items are known, very little has been done in the community college system to assemble and analyze the union and faculty contract provisions, and information on the institutional rules and practices relating to tenure. Without this essential data, it is not possible to have a complete and accurate picture of the impact and legal consequences of proposed state legislative changes. Various institutional protections depend, in substantial part, on the extent and nature of contract provisions and administrative procedures at each individual institution. This dependency (and consequently the need for information) becomes even greater if the state legislative standards were to be eliminated or materially changed in a way that would give greater discretion to local institutions and their boards.

A second body of information that is at least partially lacking is the statistical data on tenure rates at various institutions and system-wide. Information on the percentage of full-time faculty that are tenured is collected by the federal government, and copies of these forms were made available to us. But these forms do not convey a complete and accurate picture in two important respects:

- o They do not include information on part-time or adjunct teachers, who make up a substantial part of community college teaching staffs.
- o They do not include information on attrition rates, that is, the percentage of faculty that is hired on tenure track but does not obtain tenure.

Information on both these items is essential to deal with the questions that have been posed, and to properly evaluate one of the principal concerns that has been raised -- the extent of an institution's flexibility to deal with changing scholastic needs, and the degree to which a high ratio of "tenured in" faculty affects that ability.

The third information deficiency relates to actual cases of dismissals and denials of tenure that may have arisen. Anecdotal information and assessments provided during the course of our analysis indicated that the number of such cases have been unusually small. But without a more complete evaluation of these items, it is hard to draw any conclusions as to how these low numbers may relate to such matters as the adequacy of existing job security and academic freedom protections, and the legal impact of proposed statutory changes. It is notable that the state university has begun to collect and analyze information on these items, though this has not yet been done for community colleges.

The ability of the State Board of Education, or other policy-making bodies, to make effective judgments on tenure standards, either on a practical or a legal basis, is severely compromised by the absence of these critical pieces of information.

3. The legal context of tenure issues has frequently been misunderstood and misinterpreted -- more flexibility exists to deal with current needs under existing tenure policies than has been recognized

Without going in depth into the legal substance of tenure issues (which are reviewed in Part II), it must be noted that there appear to have been some important inaccuracies or misunderstandings on the part of key decisionmakers regarding various legal aspects of the tenure question.

Most important, as a legal matter, considerably more flexibility exists to deal with some key concerns, such as the high proportion of tenured faculty, and the need for flexibility to respond to changing curricula demands, than appears to be commonly understood or acknowledged.

For example, Governor Graham, at the Board of Education meeting on June 18th, posed this specific question:

> ". . . [W]hat is the capacity of an institution to make a judgment that we do not feel it is appropriate to have more than sixty percent of our faculty in a tenured position so that we will have that latitude for new faculty infusion? To what degree, under the current rules, or under the rules that are being proposed, could the institution look at its own needs in the process of making tenure decisions?"
> [Minutes, p. 12]

At a later stage, he put the same question in another way:

> "Is it your interpretation -- under current rules, could a community college board of trustees establish, as a matter of policy, that it is not in the interests of the institution to have more than X percent of their faculty tenured -- and then make decisions requisite to attainment of that policy?"

The responses to these questions given by various witnesses at the meeting were largely inaccurate from a legal point of view, and misleading in terms of the conclusions that were likely to be drawn from them.

In point of fact, as a purely legal matter, community college boards, under present tenure policies, have considerably more flexibility to deal with these issues than is generally believed or acknowledged. The accurate answer, legally, to the Governor's question is that an institution is indeed able to establish a planning goal that would seek to limit the percentage of tenured faculty to a selected level, and to work towards the achievement of this objective. Among the legally permissible steps that could be taken are:

- o denial of tenure to any number of those currently on tenure track, but not yet tenured, for any reason;

- lay-off or reduction in force of existing tenured faculty members so long as due process was observed (adequate notice and opportunity for hearing), and rational and defensible reasons related to economic and educational necessity were provided for taking the action; and

- adoption of long-range planning policies designed to reduce current percentages of tenured-in faculty over time, and thereby promote greater flexibility in faculty and curriculum choices.

A second major area where greater flexibility exists as a legal matter than has been recognized or employed also relates to the "tenured-in" issue. One reason that the professional contract approach employed for the K through 12th grade level has appeal is that it calls for concrete assessments of faculty competence to be made, both initially, before contracts are awarded, and on an ongoing basis. This procedure is seen as injecting a greater element of competency-based decisionmaking in the determination of whether tenure should be granted or continued than is seen to exist under the continuing contract system.

In point of fact, similar opportunities for competency assessments are present for continuing contract personnel, but they are not being used as widely or as effectively as they might be.

We received indications, for example, that the decision to grant a continuing contract after the three-year probationary term often takes place through a passive process -- that is, it occurs almost automatically, unless strong reasons are present for tenure to be denied, without a comprehensive evaluation of merit. This is at variance with policies suggested by the

American Association of University Professors (AAUP), and the Association of American Colleges (AAC) urging that:

> ". . . the award of tenure always be based on an explicit judgment of qualifications,. . . never . . . by default, through the mere passage of time in probationary service." (Faculty Tenure, a report of the Commission on Academic Tenure, AAUP/AAC, 1973, p. 59).

There is no reason, under present statutory provisions and under such collective bargaining agreements as are in effect for some of the community colleges, that a more explicit assessment system could not be employed, both in terms of the initial grant of a continuing contract, and for annual evaluations of continued competency in service. What leads to the assumption, or perception, that the community college system lacks effective methods to judge and maintain faculty competency seems to have more to do with whether such procedures are utilized, rather than their availability.

Still another area where present standards provide some options for obtaining greater flexibility in tenure matters that are largely underutilized is layoffs, or reductions in force. It is noteworthy that the proposed rule that triggered the current debate was aimed at dealing with the problem of potential layoffs made necessary by financial need or course changes. Yet, from a purely legal point of view, provision already exists for reductions in force made necessary by these types of economic circumstances.

For example, section 6 C-5.125(2) of the State Board of Regents rules authorizes layoffs in the university system as a result of:

- adverse financial circumstances;
- reallocation of resources;
- reorganization of academic or administrative structures, programs or functions; or
- curtailment of one or more programs or functions either systemwide or in an individual school, department or program.

Timely and appropriate notice of the layoff must be given, and contractually agreed upon standards relating to the order that exists for the laying off of staff (based on tenure status and years of service) must be followed.

Similar examples of the availability of layoff procedures also can be provided for the community college system. Section 6A-14.411(5) of the Administrative Code indicates that:

> "Should the board have to choose from among its personnel who are on continuing contracts as to which should be retained, among the criteria to be considered shall be educational qualifications, efficiency, compatibility, character and capacity to meet the educational needs of the community. Whenever a board is required to or does consolidate or reduce a program, the board may determine on the basis of the forgoing criteria . . . which college employees shall be employed . . . and any employee no longer needed may be dismissed. . . . In the evaluation of these factors, the decision of the board shall be final."

Building on this fairly broad authority, Article 16 of the Brevard Community College District Board of Trustees Collective Bargaining Agreement authorizes reductions in force subject to prior notice and discussion between the Union and the Board, but with considerable flexibility given to the Board in determining the number and types of faculty positions to be reduced, and the specific faculty members to be laid off. One element that can be used to assist in the decision on who should be laid off in that institution is the work performance of teachers in the affected discipline as determined by the two most recent annual evaluations. But the Board is not bound to select for release those faculty members with poorest evaluations, or those with the briefest times in service, so long as defensible "reasons for the selection" are given. See TAB A.

Collective bargaining agreements for other community colleges, such as Hillsborough, for example, provide for a more stringent set of pre-determined criteria for determining the order of layoff (see TAB B) more comparable to that employed in the university system (see Article 13, Board of Regents Collective Bargaining Agreement, TAB C).

This is not to suggest the absence of important practical considerations that tend to limit the options of school administrators to employ competency evaluation and layoff procedures that are legally permitted. The pressures of inertia, and a justifiable reluctance to risk legal challenge, are among the factors that, with some good cause, have tended to keep available procedures and remedies (such as layoffs or more effective teacher assessments) from being applied very often. But the possibility of making more effective use of these procedures under the existing system should certainly be part of policy options that are being considered, particularly in light of several serious drawbacks that seem to accompany other proposals.

Note should be taken, in this regard, of the position of the United Faculty of Florida, which has gone on record in support of greater use of positive procedures for assessing merit in the granting and continuation of tenure, with the proviso that these procedures be conducted in a sound and well-documented fashion (see letter to the Faculty Recruitment and Personnel Policies Committee of the Postsecondary Education Planning Commission from the UFF Committee on Tenure, November 18, 1976, pp. 5 and 6).

Part II -- Answers to Specific Legal Questions

Perhaps the most responsive and useful method for organizing the results of our legal analysis of tenure related issues is to relate them to some of the critical questions posed by the Governor and by other decision-makers.

> A. QUESTION ONE: What are the sources and nature of state laws, administrative rules and legal standards relating to tenure that currently exist for the community college system in the State of Florida?

Legal standards relating to tenure are handled very differently for community colleges than for the state university system. An understanding of this difference is critical to any evaluation of existing community college tenure rights, as well as the alternative approaches that have been proposed.

Historically, tenure policies came to be established in universities on a grass-roots basis. Individual institutions adopted customary and contractual practices designed to meet the needs of their own faculties for protection of academic freedom, and ergo, for job security. Long before state governments came into the picture, most universities had already established a set of standards and procedures for determining the grant of, and continued right to, a tenured faculty position.

Consequently, when some state governments felt the need to provide a framework and a set of minimum uniform standards for their state universities, there already existed a fairly well developed framework of standards and procedures that could become the basis for state law.

That is one reason why the Florida state statutory provisions dealing with tenure and related matters are rather general in scope, and why the administrative code contains separate provisions relating to tenure, layoff and related issues for each of the institutions in the Florida university system (See TAB D).

A very different process took place for the community colleges. Initially, they were part of the pre-university system that included the K-12 institutions, and were consequently covered by statutorily imposed continuing contract arrangements. The degree to which additional standards relating to tenure and layoff, based on the statutory formula, were adopted through the rules and contracts (collective and/or individual) of individual community colleges varied from institution to institution. Because it was more of a top-down process (state law to local institution), rather than the bottom-up approach taken in the university system, considerably more reliance was given to the state laws and rules as the basis for both the form and substance of tenure related requirements.

When the K-12 level was split off and given the professional contract system, the community colleges remained as a separate institutional structure, still subject to continuing contract rules.

It is this structure and history that has heavily influenced the nature of legal standards on tenure for the community colleges. These standards are basded primarily on state legislative provisions and rules derived from the continuing contract format, and are supplemented to a far lesser extent by individual institutional rules and contractual agreements than is the case in the university system.

As has been noted, tenure rules derive from four sources:

1) constitutional provisions (state and federal);
2) state legislation and administrative rules;
3) written contracts (collectively bargained and individual); and
4) rules and customs of individual institutions.

Constitutional standards require that due process (basically adequate and reasonable notice, statement of reasons, hearing and representation) be provided before an individual's property right can be taken away or infringed upon by action of the state. They also protect an individual's (in this case a teacher's) freedom of speech.

Faculty at community colleges are covered by these protections because they are public (though not state) employees, whose income, jobs and continued employment are ultimately controlled through state action, or the action of public bodies that are entities of the state.

State laws and rules establish tenure (or property) rights for community college faculty who are on continuing contract because they create a reasonable expectation of continued employment. Under the two principal legal cases on tenure decided by the Supreme Court (Board of Regents of State Colleges v. Roth, 92 S. Ct. 2694 (1972) and Perry v. Sindermann, 92 S. Ct. 2694 (1972)) it was held that the terms of the contract between a faculty member and a school, as well as the customary practices of the school in administering it, determine whether a sufficient property interest in the job exists so as to require reappointment absent a good cause reason for denial. In the case of Florida community colleges, the state's continuing contract system would meet this standard once the three year probationary period has passed and the fourth year contract is unconditionally awarded. At that point, an expectation of continued employment, and ergo a property right, has vested.

Contractual agreements are another source of tenure rights for community college teachers. Contracts for individual faculty members are standard (see TAB E), but there is somewhat more variation in the provisions of the collective bargaining agreements entered into by those of the community colleges whose faculties have union representation (see TABS A and B).

In any case, the text and substantive content of all collective and individual contracts are bound to follow, and not conflict with, the terms and conditions set out by the state statutory provisions. To the extend there are material differences the state law would be controlling. A legal argument could be made that a contractual provision entered into prior to a conflicting state law would be entitled to continue in effect, but as a practical matter the state statutory standards generally will be given precedence.

Institutional practices and custom, because they have been so heavily weighted in favor of the statutory system, and tend to follow that system so closely, do not represent as strong a source of additional legal standards for the community colleges as they do in the university context. Perhaps the most detailed and far-reaching of such rules are those adopted by the Miami-Dade Community College (see TAB F). But as has been noted, a more complete analysis of individual community college rules is not possible at this point because no ongoing procedure presently exists for their collection and analysis.

Taking all these sources as a whole, the current legal standard on tenure for the community colleges mandates that a faculty member is given continuing contract status (which amounts to tenure or a vested property right) on successful completion of a three year probationary period at the point that a contract for a fourth year is entered into on an unconditional basis. This approach is based primarily on statutory provisions, on implementing rules in the administrative code, and finally on contract provisions. TAB G sets out the relevant statutory provisions, and TAB H the more detailed administrative code sections that provide substantive standards on such issues as dismissals for cause, layoffs and hearing procedures.

B. QUESTION TWO: If state laws and administrative rules relating to tenure were eliminated, what standards and protections relating to job security and academic freedom would remain from other sources, and would they be adequate?

SHORT ANSWER: Considerably more tenure related standards would remain in existence for the university system than for community colleges. This difference would be so substantial that concerns as to the adequacy of remaining job security and academic freedom protections for the community college system may be well-founded.

Equally important, the lack of available information on the nature of tenure standards and procedures at individual community colleges makes it impossible at this point to accurately assess the

> extent of potential problems and inadequacies, and casts doubt on the desirability of eliminating state standards until more complete information can be obtained and analyzed.

Legislation and administrative rules, written contracts, and actual institutional practices, provide the substance that determines whether constitutionally protected property rights (tenure) are attached to a teaching position. The constitution mandates only that the property rights of tenured teachers can not be infringed upon without due process. The other three sources determine when and how these property rights come into existence and are maintained -- when tenure rights take effect, how they are established, and the reasons and procedures that must exist for their termination.

Thus, when the state laws or rules are eliminated it does not mean that existing tenure rights necessarily disappear -- just that one must then look at the other sources (contracts and institutional practices) that give substance to the property right concept that the constitution has established. It would then become the contract between the faculty member and the school, and the customary practices of the school in administering it, that will determine whether and to what extent a property interest exists.

A good example of how this works can be seen in the university system. There, the state laws and rules are not as predominant a source of tenure rights as is true for community colleges. Tenure issues are covered extensively by several provisions in the laws and regulations. But they also are dealt with in detail in the state-wide collective bargaining agreement and in the rules of individual institutions. In essence, the state law embodies the tenure rights that have been established through long-standing historical precedents, and through system-wide collective bargaining.

In the community college system the circumstances were very different. Tenure rights derived not so much from institutional practice, in the first instance, but from state law that grew out of the fact that community colleges originally were part of the elementary and secondary school system. State legislation and administrative rules applied the same substantive standards on tenure (the granting of a continuing contract) as originally were used for the K-12 system. As a result, there tends to be less substantive and detailed treatment of tenure issues in collective bargaining agreements and institutional rules at the community college level. There was far less need for individual institutions to provide these details, since the state laws and rules covered these items with considerable clarity.

Consequently, the elimination of tenure protections by the state would have far more serious consequences for community colleges than for state universities, since more of a vaccuum would be created. In addition, the extent of these consequences cannot be accurately or fully gauged, because, unlike the situation in the university system, the community colleges do not presently maintain a clearinghouse of information that regularly assembles and analyzes the particular tenure policies, practices and experiences of individual institutions.

It is the absence of this information, notably a complete collection of existing contractual agreements, statistical data on tenure status, and information on cases involving denial of tenure or dismissal, that makes it almost impossible to make an accurate assessment of whether protections on job security and academic freedom would be adequate at the community college level absent existing state legal protections. One can make an educated guess that such protections will be adequate in some institutions where more detail on tenure rights is provided in collective bargaining agreements, individual contracts or institutional rules, and less than adequate for those institutions that have relied almost exclusively on state standards and have not supplemented them, or incorporated them in detail in contracts and rules.

Moreover, the total elimination of state standards in these circumstances would likely produce a situation where a wide variety of sometimes inconsistent standards could be adopted and applied by individual community colleges. While some degree of local flexibility and discretion is an important goal, the total absence of any state standards would be bound to raise some legitimate concerns on the part of prospective teaching candidates who would expect some minimum protections on a uniform basis.

Of course, it is not likely that the policy of the state would be simply to eliminate the existing tenure system for community colleges without substituting some alternative standards. If the state legislature replaces the continuing contract system with some alternative, such as the K-12 professional contract approach, then the state standards would supersede any conflicting procedures or rules being applied by individual institutions, and these standards would have to be amended to conform to the state requirements, with one important exception. Those individuals under continuing contract contracts at the time of the change, and even those on a continuing contract track at that point, would be deemed to have vested property rights in that format, and they would be entitled to continue under the old rules unless they voluntarily choose to come under the new system.

What this exception means is that, as a practical matter, it will take some time before any new state legislative tenure system would become fully operational. The current generation of teaching staff under continuing contract would have the right to remain under the old system, if they so choose, irrespective of changes in state law. This approach, sometimes referred to as "grandfathering," was applied in the K-12 system when they moved from the continuing to the professional contract arrangement. Section 213.36(4)(a) reads as follows:

> "An employee who has continuing contract status prior to July 1, 1984, shall be entitled to retain such contract and all rights arising therefrom . . . unless the employee voluntarily relinquishes his continuing contract."

This "grandfathering" requirement would serve as an important limitation on the application of any extensive policy changes applied to state tenure standards through amendment of state law or rules.

C. QUESTION THREE: Are there significant legal differences between the tenure status and rights of faculty members under the current continuing contract system, and those under the K-12 professional contract approach?

SHORT ANSWER: No! Although there are some differences in procedures and standards that are followed under the two systems, the nature and extent of the property rights under both types of contracts are very comparable. Nevertheless, perceived differences do exist on the part of some teachers and school administrators, and, these perceptions may tend to have some practical results.

Among the important differences that exist are:

- addition of an informal procedure to discuss and deal with allegations of unsatisfactory performance prior to formal dismissal and hearing;
- option of transfer to another college when a finding of unsatisfactory performance has been made;
- availability of in-service training opportunities and other methods for correcting alleged deficiencies during a probationary year; and
- more detailed procedures for periodic evaluations.

These procedures do represent substantial improvements in the continuing contract system. Instead of a very informal annual evaluation process, the professional contract employs a more structured system with more standardized assessment criteria. Consequently, a greater potential exists for assuring that adequate teaching performance will be maintained.

Similarly, there would appear to be some added ability to improve and assure the maintenance of teaching performance levels through the use of the in-service training and assistance options.

But from the point of view of legal protections, only negligible differences exist. Legally recognized property rights are not materially altered when a contract, instead of automatically remaining in effect from year to year absent a good cause dismissal (the continuing contract model), must be renewed annually unless good cause exists that would justify non-renewal (the professional contract approach). What is present in both circumstances is the element of "continued expectation of employment" that the courts rely on to establish the existence of a property right. Holders of both types of contracts would be deemed to have vested property interests (and be tenured), and be equally entitled to Administrative Procedure and due process protections for any adverse actions.

Indeed, some even would argue that teachers under professional contracts have stronger tenure rights, because the assessments and evaluations that must take place before deficient performance or good cause can be shown to exist are subject to more formal and stringent requirements. Likewise, the requirement that remedial assistance be provided adds to, rather than subtracts from the protections provided to holders of professional contracts. In the same vein, due process protections also may be stronger in the professional contract because they are spelled out in greater detail.

Nevertheless, despite the high degree of comparability from the legal perspective, some teachers and administrators believe that greater flexibility exists under the professional contract to deal with such issues as teacher retention and good cause dismissals. While these perceptions may not be legally correct, they undoubtedly have some impact on how the system operates as a practical matter. The presence of clearer standards for assessment and accountability, for example, may help move the system towards these goals even though, legally speaking, the extent of property rights has not been noticeably altered.

Since the issue appears to be more of a practical than legal one, it becomes important to assess whether the perceived advantages of the change from continuing to professional contract outweigh any disadvantages that are likely to be produced. Although this area is not covered by the legally focused mandate of this report, mention should be made of two potential problem areas that came to our attention in the course of our review.

One was the expectation expressed by several of those interviewed that an elimination of state tenure standards for the community colleges, or a change to the professional contract system, would spawn renewed interest among faculty members in unionization, with the accompanying concern that less, rather than greater, administrative flexibility might be the long-term result.

The second was the fact that the community college system presently does not have a sufficiently well-developed capacity to deal with the more formal assessment and training assistance procedures that make the professional contract work effectively at the K-12 level. Indeed, considerable reluctance was expressed by community college administrators to be part of a system that would establish statewide procedures and standards for these areas, and encroach on the heavily emphasized principle of institutional autonomy.

D. QUESTION FOUR: What light can be shed on the nature of tenure protections by recent case law and court decisions?

There are a number of court decisions (see TAB I) particularly those from Florida, that should be understood and taken into account as part of the evaluation of tenure policy needs. The analysis of these cases will be organized around key themes or issues of relevance to potential changes in current tenure policies.

1. Availability of Free Speech Protections. Quite apart from statutory and contractual protections relating to due process treatment of property rights, teachers also may rely directly on First Amendment standards where freedom of speech is related to a dismissal. In Givhan v. Western Line Consolidated School District, 99 S. Ct. 693 (1979), the U.S. Supreme Court held on First Amendment grounds that a teacher, as a public employee, could not be dismissed because she communicated with her principal voicing opposition to school desegregation efforts.

In Pred v. Bd. of Public Instruction of Dade County, Fla., 415 F.2d 851 (U.S.C.A., 5th Cir., 1969), the U.S. Court of Appeals for the Fifth Circuit held that participation in union organizing activities, and the making of demands in the classroom for greater campus freedom, were activities protected by the

First Amendment, and could not be used as a basis for denying a continuing contract.

2. Right to Dismiss Non-Tenured Faculty. The Florida Supreme Court has decided that the School Board has wide discretion to refuse to reappoint a non-tenured faculty member, and that this right cannot be altered even through a collective bargaining agreement which seeks to limit such refusals to "just cause", or to require their arbitration. Lake County Education Association v. Lake County School Board, S.C. Fla., Case No. 54,917 (Dec., 1978). This discretion is subject to the limitation, discussed above, that participation in constitutionally protected activities cannot be the basis for the denial of tenure.

Taken together, what these principles mean is that no reason need be given for denial of tenure, but that if a constitutionally protected right was involved in the denial, then the non-renewed employee can challenge the action in court.

Thus, in Thaw v. Board of Public Instruction of Dade County, 432 F.2d 98 (U.S.C.A., 5th Cir., 1970), the court ruled that there is no requirement for a hearing for a probationary teacher where there was no assertion of dismissal for constitutionally protected action. Likewise, in Williams v. Bd. of Public Instruction of Dade County, 311 So.2d 812 (Fla. App. 1975), the court held that failure of a teacher to satisfactorily complete the third probationary year was adequate grounds for denial of a continuing contract.

3. Meaning of Continuing Contract. Perhaps the most informative decision dealing with the meaning and implications of continuing contracts is Gainey v. School Bd. of Liberty County, 387 So.2d 1023 (Fla. App., 1980), where the retaining of a teacher for a fourth year was found to automatically give that teacher continuing contract status, even though there was some dispute as to whether an annual or continuing contract was intended by the Board, and in fact an annual contract form was signed.

4. Meaning of Good Cause for Dismissal. The nature and degree of the good cause standard that must be met to justify dismissal of a tenured teacher was reviewed in detail in Texton v. Hancock, 3359 So.2d 895 (Fla. App., 1978) where an adequate showing of immorality, misconduct or neglect of duty was found not to have been made.

In Phillips v. Santa Fe Community College, 342 So.2d 108 (Fla. App., 1977), a thirty-day time limit to appeal the Board's termination was upheld.

5. Choice Between the Grievance Process and a Due Process Hearing. Now pending before the Florida courts is the question of whether an employee challenging his or her termination must choose between a grievance procedure based on a collective bargaining agreement (if one exists) and the administrative due process hearing guaranteed by state law and the Constitution. Put another way, the issue is whether a grievance procedure satisfies the administrative due process standard.

Among the cases where this issue has been considered or is in dispute are:

> De Soto County Teachers Ass'n v. District School Board of De Soto County, State of Florida Public Employees Relations Commission, Case No. CA-85-069 (Oct. 1985), which involved the school board's alleged refusal to arbitrate a termination grievance.
>
> Public Employees Relations Commission v. District School Board of De Soto County, District Court of Appeals, 2nd Dist., Case No. 78-1308 (Apr. 1978), which held that the arbitration provisions of a collective bargaining agreement proved an alternative means for reviewing an unlawful discharge claim. The decision also considered whether a losing party in an arbitration award could then resort to a due process hearing (or vice versa), discussing two other states' decisions on this issue (New York con, New Jersey pro), and held that whichever remedy is chosen must be the exclusive one.

Part III -- Summary of Recommendations

Recommendation One -- Adequate Information: No decision on possible changes in state tenure policies for the community college system should be made before procedures are established to regularly collect from each institution, and to analyze, information on:

- collective bargaining agreements, individual staff contracts and institutional rules:
- regular (tenured and untenured), adjunct and part-time faculty statistical breakdowns; and
- the number, nature and disposition of cases, grievances and complaints on tenure related issues.

Recommendation Two -- Changing from Continuing to Professional Contract: As a purely legal matter, there are not substantial differences in the substantive content of tenure protections under the continuing contract and professional (K-12) contract approach. However, the public, the unions and some community college administrators perceive that the professional contract provides somewhat greater flexibility and accountability, and this perception may produce some movement towards these goals. Given the limited legal differences between the two systems, the desirability of making the change is questionable.

Recommendation Three -- Making Greater Use of Existing Options: Additional attention should be given to the possibility of making greater use of presently available methods for dealing with tenure needs and problems. Among the types of approaches that can be utilized without basic changes in state tenure policies are:

- more regular and formal teacher assessment procedures;
- lay-off and reduction-in-force options; and
- long-range planning efforts designed to reduce the proportion of tenured faculty.

State of Florida
Department of Education
Tallahassee, Florida
Ralph D. Turlington, Commissioner
Affirmative action/equal opportunity employer

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